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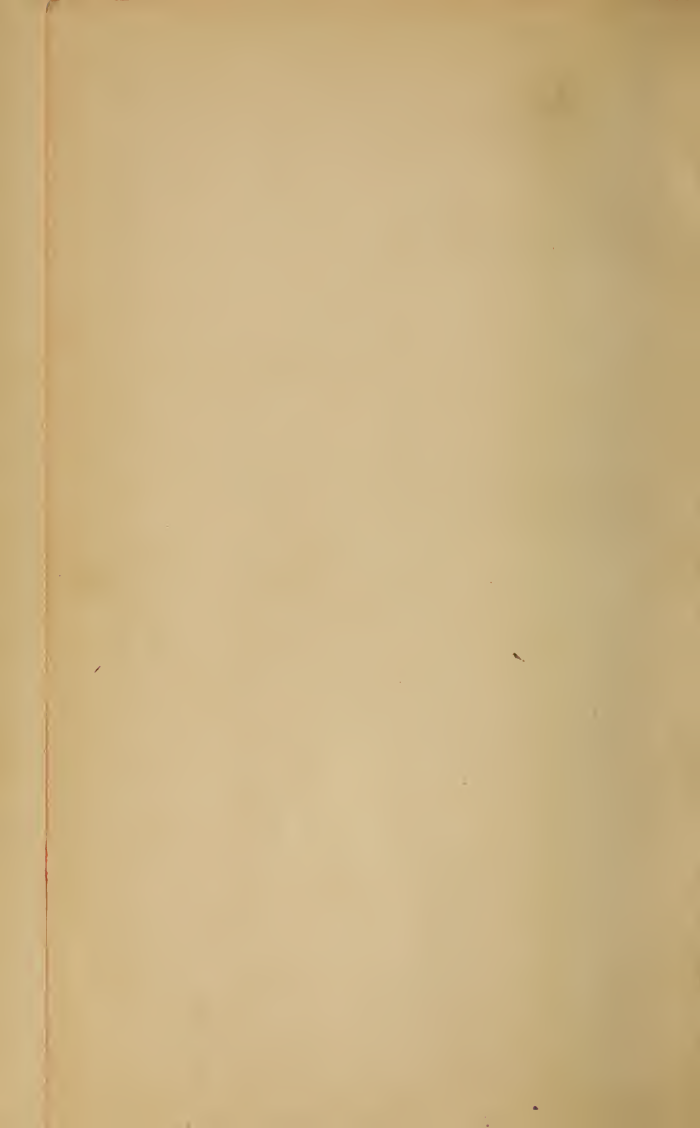
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*RATIONAL PHILOSOPHY*

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# FUNDAMENTAL ETHICS

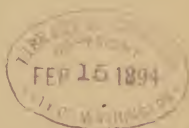
AN ETHICAL ANALYSIS, CONDUCTED BY WAY OF  
QUESTION AND ANSWER

*FOR USE IN CLASSES OF MORAL PHILOSOPHY*

BY

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## PREFACE.

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THE following pages contain a condensed treatise on the general philosophy of morals. The character of the work is fully indicated in the title "Fundamental Ethics."

An endeavor has been made, throughout, 1. To give short, clear definitions of all essential terms ;

2. To force into prominence the groundwork and principles of practical ethical science ;

3. To illustrate the abstract principles, when necessary, by examples from which their practical application in other cases may be readily inferred ;

4. To concentrate attention upon the fact that there are fixed principles of conduct.

In the method employed, that of question and answer, the convenience, if not the need, of beginners has been consulted. Students of ethics often spend much time upon concrete questions whilst devoting very little to the principles that are necessary for the solution of those questions. Thus it is that in spite of their study they may remain with very vague views regarding many serious matters ; whereas, had they but acquired a thorough understanding of the principles, their mastery of practical problems would have been at once easy, rapid, and secure. The direct question calls attention

to important points which, in an undue haste to leave the abstract and take up the concrete, are too frequently accepted without examination. Yet the study of the concrete can never be scientific, and must always be uncertain in its conclusions, if the worthiness of the principles upon which it is based has not been subjected to the proper test. With these truths in view, it has been judged that the method here applied to the ethics is the one that holds out greatest hope of ensuring most widely the aim of the book ; since there is no scrutiny so exhaustive as the questioning analysis.



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# FUNDAMENTAL ETHICS.



## CHAPTER I. ETHICS AND MAN.



### ARTICLE I. NATURE AND REQUIREMENTS OF ETHICS.

Nature of Ethics—Previous Truths to be known—The Will of Man, Free and Responsible.

1. *Q.* What is ethics?

*A.* The science of the rule of right and wrong.

2. *Q.* Why is it called a science?

*A.* Because it gives the rule and the reason for the rule.

3. *Q.* What truths must be taken as a foundation by one who would study ethics?

*A.* Sound ethics must be based on sound metaphysics. Sound ethics, therefore, must start by recognizing, especially,—

(1) The existence of one God, omnipotent, creator, infinitely wise and just;

(2) The finite nature of man, composed of animal body and rational soul, which form one person;

(3) The veracity of the faculties;

(4) The immortality of the human soul;

(5) The liberty of the human will.

4. *Q.* Are these truths proved anywhere in philosophy?

*A.* Yes : they are proved in logic and in general and special metaphysics.

5. *Q.* Why are these truths required as a basis in ethics?

*A.* Because (1) To deny the existence of God would be to deny the binding force of all law upon the will of man.

(2) To deny man's finite composite nature would be to deny him to be what he is and hence to deny the purpose of ethics.

(3) To deny the truthfulness of the faculties would be to doubt everything and thus render all reasoning useless.

(4) To deny the immortality of the soul would be to take away the final safeguard for the observance of the rule of right and wrong.

(5) To deny human liberty would be to deny all responsibility on the part of man ; and hence to deny the very distinction between right and wrong in the human act.

6. *Q.* Do we here treat ethics, right and wrong, from the side of supernatural revelation ?

*A.* No : we treat it as it is knowable by natural means, as natural knowledge. And we do not enter into the question how far our natural knowledge has been preserved free from error by supernatural revelation.

7. *Q.* For whom or for what is this rule of which we speak ?

*A.* For the human will.

8. *Q.* Is this rule a law ?

*A.* Yes : as we shall see later on.



9. *Q.* But, if the human will is free, how can it be subject to a law?

*A.* That question touches the keynote of ethics.

10. *Q.* How does it touch the keynote of ethics?

*A.* Because there is no such thing as ethics unless we recognize man to be both *free* and *responsible*, at the same time: *free* with the physical power to use his will one way or another, *responsible* for the way in which he uses it.

11. *Q.* To whom can a free will be responsible for the use of its free choice?

*A.* To the one sole Being who has authority over a free created will, to its Author, God.



## ARTICLE II. STANDARD OF GOOD AND EVIL.

Good and Evil; Right and Wrong — How to find the Standard — A Fundamental Fact and a Consequence — The Purpose of Creation — The System of the Universe — The Order of Nature — The Order Broken.

12. *Q.* Is the rule of right and wrong, then, simply the will of God in such sense that no matter what a thing is in itself, it can become good to-day and evil to-morrow, merely as God orders or forbids it?

*A.* Not so fast. There are things which are in themselves good, and things which are in themselves evil. That which is in itself good can never become in itself evil. That which is in itself evil can never become in itself good. There is a standard of good and evil — right and wrong, — an unfailing standard. God cannot but wish us to choose the good and reject the evil. His will, however, is law for the created will. Hence the

rule of right and wrong becomes law for the human will.

13. *Q.* How shall we find the standard of good and evil — right and wrong?

*A.* By studying the nature of things.

14. *Q.* Does "good and evil" mean the same as "right and wrong"?

*A.* Not precisely. "Good" and "evil" refer to that to which the will may be directed, which the will may choose. "Right" and "wrong" refer to the act of the will, willing, choosing the good or the evil. Still the words are often substituted for one another. We are accustomed, in conversation, to call "good" "right," and "evil" "wrong," because it is right to will the good and wrong to will the evil.

15. *Q.* How then shall we discover what is good and what is evil?

*A.* By studying the nature of things.

16. *Q.* Will not this be an endless study?

*A.* No. What we want is a standard; and this we can get by taking account of some general principles.

17. *Q.* How must we begin?

*A.* By recognizing the fact of creation. In laying the foundation of ethics, it is absolutely necessary to keep steadily in mind the *fact* of creation by a Creator infinite in wisdom and in justice.

18. *Q.* What follows from this fact?

*A.* It follows that an infinitely wise Creator must have had a purpose in creating; for it is not the part of wisdom to act without a purpose.

19. *Q.* What is the general final purpose of the whole creation?

*A.* The general final purpose of the whole creation

must be something that refers to the Creator himself ; for there is nothing beneath him that could be counted worthy of his action. Moreover, this same final purpose of the whole creation, taken as a unit, must of course be the final purpose of the existence of each individual being in the creation.

20. *Q.* How can each individual thing in creation tend to this final purpose ?

*A.* Each individual thing in creation has its own peculiar special nature, with a special kind of action adapted thereto, and it can tend to the final purpose only by the orderly exercise of that peculiar nature placed in it by the Creator.

21. *Q.* What do we call the combination of the various beings of the created universe in their various relations to one another ?

*A.* We call it the system of the universe.

22. *Q.* What do we call the proper subordination of these various parts of this system, and the subordinated harmony of these multifarious natures ?

*A.* We call it the order of nature.

23. *Q.* How does each being contribute to the order of nature ?

*A.* By acting according to its own nature.

24. *Q.* Are there beings that can act contrary to their own nature ?

*A.* Yes.

25. *Q.* What beings are they ?

*A.* Those that have free will — that is ourselves — human beings.

## ARTICLE III. MAN.

Man — Body and Soul a Unit — Reason and Free Will in Right and Wrong.

26. *Q.* What is a human being?

*A.* The human being, called *man*, is a composite being, made up of a material animal body and a spiritual soul. This spiritual soul is endowed with reason and free will.

27. *Q.* Is not man then two beings?

*A.* No. Spiritual and animal nature conspire in him to form the person, the unit, the *man*, governable by reason and free will.

28. *Q.* When does man act according to his nature?

*A.* When he acts according to reason with free will; that is, when he acts freely, deliberately, according to his reason.

29. *Q.* What is it to act according to reason?

*A.* It is to do that which reason points out to be in keeping with the nature of things.

30. *Q.* What is it to act according to reason with free will?

*A.* It is to will deliberately that which reason points out to be in keeping with the nature of things.

31. *Q.* What, then, once more, do we mean by right and wrong?

*A.* Right and wrong refer to the direction of the will. We are said to do right when, after reason has pointed out something to be in keeping with the nature of things, we deliberately direct our wills towards that something whether by choice, desire, approval, command, etc. We are said to do wrong, when we deliberately direct

our wills by choice, desire, approval, command, etc., to that which reason shows us to be a perversion of the order of things.



#### ARTICLE IV. THE END AND THE GOOD.

The End of Anything — How Found — Proximate, Ultimate, Intermediate End — The "Good" — The Highest Good — All Goods, for Man, subordinated to the Highest Good, as All Man's Acts are subordinated to the Highest Exercise of the Act Peculiar to Human Nature.

32. *Q.* It has been said that the final purpose of each individual in the creation is the same as the final purpose of the whole creation. Has each individual in the creation also an immediate or proximate end of its existence?

*A.* Yes. Since each individual in the creation has its own peculiar nature, this was given to it by the Creator to be exercised in its own peculiar manner: and the exercise of this nature or activity is the immediate or proximate end of its existence.

33. *Q.* What is meant by an *end* of anything?

*A.* The purpose for which it exists.

34. *Q.* How can this purpose be discovered?

*A.* By studying the nature of the thing in question.

35. *Q.* Whose purpose is this?

*A.* The purpose of the Creator who gave things their nature.

36. *Q.* Are there various divisions of ends or purposes?

*A.* Yes. For, one purpose intended may be intended

for another purpose ; and this for a third ; and the third for a fourth ; and so on.

37. *Q.* What is the first one intended (the nearest) called ?

*A.* The proximate end.

38. *Q.* What is the last one intended (the farthest off) called ?

*A.* The ultimate end. If there be but one end intended, it is of course first and last, or proximate and ultimate.

39. *Q.* What do we call any purpose which is directed to a further purpose ?

*A.* An intermediate end or a *means*.

40. *Q.* What do we call the object which serves as the material upon which any natural power or activity exercises itself ?

*A.* We call it the good of that power. Thus light is the good of vision ; sound, of hearing ; truth, of intelligence, etc. Sound cannot be called good for sight, nor light for hearing.

41. *Q.* When an object is found which fills the highest capacity for action of a being, what is such object called ?

*A.* Such object is called the *highest good* of that being, its *summum bonum*.

42. *Q.* How then is it with man ? Since he possesses within himself so many faculties of different orders, — of the animal order and of the purely spiritual order, — has each of them its own good ?

*A.* If we consider the separate faculties or capacities for action independently of one another, and independently of the person, man, to whom they belong, then of course each one has its own peculiar object upon which

it is good for such faculty to exercise itself. But we must remember that the faculties are not things independent and by themselves, but are for the person, the compound, man, taken as a unit, to whom they belong. They are subordinated to the compound in their existence. Hence they are naturally subordinated in their exercise, to the exercise of the compound, man, taken as a unit. Hence their exercise upon their objects will be good even for them only as subordinated to the exercise of the activity peculiar to the compound being, man.

43. *Q.* What is the proper, peculiar action of the composite being, man, called?

*A.* A human action — a human act.

## CHAPTER II. THE HUMAN ACT.



### ARTICLE I. THE HUMAN ACT AND THE INNATE TENDENCY.

The Human Act—The Act of the Man—Knowledge and Free Will  
—The Purpose—The Final Purpose—The Mistaken Purpose  
—The Good of Reason—The Good of the Will—The Innate  
Tendency.

44. *Q.* What is a human act?

*A.* A human act is an act performed by man with knowledge and free will.

45. *Q.* Is every act of man a human act?

*A.* Not every act of man is a human act, because not every act of man is performed with knowledge and free will.

46. *Q.* It was said that the final purpose of the existence and action of man is a purpose that is in the will of the Creator. Now as man is endowed with intelligence and free will—to know and to choose—can he also set himself a purpose in his acts?

*A.* Yes.

47. *Q.* When man acts without a purpose can we call his act a human act?

*A.* No. Because he does not bring into play those very faculties, intelligence, *and* free will, which characterize him as a human being.



48. *Q.* What then do you call such an act performed without a purpose, that is, performed without intelligence *or* free will?

*A.* It is called simply an act of the man, but not a human act. This is the case whenever either knowledge or free will is wanting. Thus, when persons talk in their sleep, they do not perform human acts because they do not know what they are doing. On the other hand, a person may stumble and fall. *He* really falls. He knows at the time that *he* is falling, but the *falling* is not the result of his free will; it is against his will. The act is not a human act. Again, a person may drink poison, thinking it to be pure water. He knows that he is drinking and drinks of his own free will. In so far, therefore, as the mere drinking is concerned, there may be said to be a human act. But he neither knows that he is *drinking poison* nor does he will to *drink poison*. Hence his *drinking poison* is not a human act. He knows and wills the *drinking*, but not the *drinking poison*.

49. *Q.* What is the purpose for which man acts in a human action?

*A.* Always something which the will chooses to attain as presented to it by the understanding.

50. *Q.* Can the will aim at one purpose for the sake of attaining a further end, and this for a third, and so on?

*A.* Yes, the will can keep on intending a further purpose, a fourth, a fifth, and a sixth, and so on, until there is no further purpose, that is, until it reaches a final end or purpose.

51. *Q.* What end or purpose does the will propose to itself in willing?

*A.* The will is free and can intend various purposes.

52. *Q.* But is there not some common purpose intended by all the acts of the will?

*A.* Yes, the will always proposes some good of the person willing.

53. *Q.* Is this good always the good of the whole man, the person taken as a unit?

*A.* No. It may be the good of a single faculty, of a single capacity, whose action, at the time or in the manner chosen, may be detrimental to the whole man taken as a unit. Just as in the case of the animal body, a man may will the satisfaction of his palate in a degree or at a time that will make the acquisition of such local and partial good, really detrimental to the whole body; so in regard to the entire man, the will may choose some individual good of a particular faculty that will be detrimental to the unit, the human being, the composite personality of the man.

54. *Q.* When does the willing of a particular good become detrimental to the good of the human being?

*A.* Whenever it interferes with the acquisition of the goods that are suitable for the activities that characterize the human being as a human being.

55. *Q.* Which activities are these?

*A.* Reason, and free will under the guidance of reason.

56. *Q.* What object constitutes the *good* of reason?

*A.* Truth.

57. *Q.* Is it this or that particular truth regarding the things about us?

*A.* No. Because this or that particular truth will not fill the capacity of the mind for knowing.

58. *Q.* Will it then be the collection of truths reasoned out one after another?

A. No, for thus we should never get through. There would always be something more to know and our capacity would ever remain unsatisfied. Now, we cannot admit that an infinitely wise Creator gave man an endless tendency which could not possibly attain its object.

59. Q. What then?

A. Then it follows that there must be some *one* object which of itself constitutes the *good* of reason; which must be attainable by reason; and which, being known, will fill the capacity of the mind for knowing.

60. Q. But is such object attainable by reason?

A. It must be, or we shall have to admit that an infinitely wise Creator created man without an object, that is to say, put in him a tendency at once inevitable and insatiable.

61. Q. What constitutes the good of the will?

A. The real good of the will must be that which is the good of the person to whom the will belongs. The will is a blind faculty. It has nothing to do but to choose, and to command the other faculties in keeping with its choice.

Every being in the Creation has an *innate* tendency to its own peculiar good, and no innate tendency to any other good. No being in creation can act *directly* against this tendency for the simple reason that it is not endowed with the power so to act.

## ARTICLE II. THE TRUE AND THE APPARENT GOOD.

The Choice of the Will — The True Good and the Apparent Good — Evil, as Evil, never chosen — Two Guiding Rules.

62. *Q.* If every being in the creation has an innate tendency to its own peculiar good, and if no being can act directly against this tendency, how does it come to pass that man does, sometimes, choose that which is not the good of the entire personality of man, taken as a unit?

*A.* To understand this we must remember that the will does not see for itself. It chooses only upon the representation of the intelligence. Now ignorance, prejudice, passion, may go far towards giving a bias to the mind and putting out in strong light the good of a part of the man, of a single faculty, and hiding the good of the whole being.

We must distinguish between the true good and the apparent good of anything. The true good is the object suited to perfect the whole being by giving play to the faculties in whose exercise lies the perfecting of such being; or we may say that their very exercise is the true good of such being. Hence if we have a being composed of various parts which conspire to make one specific entity, the true good of that being cannot be the good of any particular part or faculty, but it must be that which is the good of the whole being. Hence as in such a being each particular part will have its own special nature, hence its own special mode of action, and hence its own special proximate end, and hence its own special suitable good; and just as these special natural modes of action must be subordi-

nated to one another to produce the proper resultant which is the true natural action of the whole being, so in like manner are the respective goods subordinated to one another. The *true good* of the being will be what perfects the being considered as a unit. That which perfects only one or another part or faculty, considered separately and apart from the view of the whole, is but an apparent good. Hence it is, that the natural special end of any being and its *highest good* must be sought from the knowledge of the complete specific nature of that being; from the sum of all its faculties in proper subordination; from the natural resultant tendency which is the specific tendency of that being.

63. *Q.* Does the will then never choose evil under the aspect of evil?

*A.* Never. When that which it chooses is really detrimental to the person, it chooses the same under the aspect of good, as an apparent good, the reason being averted whether wilfully or not from the consideration of the true nature of the thing as evil.

64. *Q.* But if the reason is averted wilfully, is not there then a direct choice of evil as evil?

*A.* Not even then. For the attraction to the lower good may be so powerful on account of habit formed by yielding to passion, etc., that the will to avoid resistance may permit or order the reason to present the particular good in the strongest light.

65. *Q.* What two guiding rules may be drawn from what has been said thus far?

*A.* First: that the nature of a being, whether a free being or not, is the immediate rule for the correct action of that being, to make the continuous existence of that being in harmony with the system of the universe and

not a disturbance in the order of nature. Second: That as there is wisdom in the system of the universe, there must be an object for each specific being; and each being following the rule of its specific nature can attain its object, its suitable good, its last end, its highest good.



### ARTICLE III. PERFECT HAPPINESS.

Perfect Happiness — Desired by All — Attainable — Found in the possession of the Highest Good — Not attainable in This Life — How to arrive at it.

66. *Q.* When man, acting as man, attains the object which constitutes the good of reason, that is, truth beyond which there is no enquiring, and the object that constitutes the *good of the person*, what is the result?

*A.* Perfect happiness, the ultimate perfection of the free rational nature by its exercise upon an object adequate to its capacity.

67. *Q.* Is there a standard of happiness, that is to say, is it the same in kind for all men?

*A.* Yes; because human nature is the same in kind in all men, and happiness is the final perfection of human nature.

68. *Q.* Is perfect happiness desired by all men?

*A.* Yes. This desire is natural. It is simply the natural tendency of human nature, as everything in the universe has its natural tendency. We use the word happiness simply as a special word expressing the object of the tendency of human nature. This inevitable tendency is proved by each one's experience and by the unanimous consent of mankind. We may indeed turn

our minds away from the consideration of perfect happiness, but considering it we cannot have a feeling of aversion to it, for this would require that there would be in it something which could be presented to us as disagreeable to possess.

69. *Q.* Can this perfect happiness be attained in this life?

*A.* No; because no thing nor any combination of things as attainable in this life, can fully satisfy this essential, radical, primary tendency of human nature.

70. *Q.* Must this perfect happiness nevertheless be *attainable* by all men?

*A.* Yes; unless we wish to say that the Creator has given to man an *inevitable* tendency towards an impossibility. It would be absurd to hold this even with regard to one man, for human nature is the same in kind in all men.

71. *Q.* How long will such state of happiness last?

*A.* It must be a state that will last forever. And the one who reaches it must possess it with a *certainty* that it shall not end. For if in the possession of a *happiness* there were even a suspicion that it might end, this would take away from it the character of *perfect* happiness, since something beyond would be desired.

72. *Q.* What do we call that object the possession of which will constitute man in the state of perfect happiness?

*A.* It is called his *highest good*. It is also called his *last end*, because he cannot tend to anything beyond, nor propose to himself anything beyond.

73. *Q.* Cannot riches constitute this last end or highest good?

*A.* No; because, as we said, the highest good must be attainable by all men and few can acquire riches.



Then, even though all might acquire them, the mere possession of them cannot constitute happiness; they are, at best, only a means to a further purpose. Besides they are not permanent with any one. They must be resigned at death; and even whilst they are possessed, their possession is attended with anxiety.

74. *Q.* Could not honor be the highest good?

*A.* No: it is not in the power of all men; it is a very unreliable possession; and it is altogether external and adds nothing to the possessor.

75. *Q.* Could human science be the highest good?

*A.* No; it is not within the reach of all. And then how little even one great mind can master!

76. *Q.* Can pleasure itself be called the highest good?

*A.* Certainly not sense-pleasure. This debases the rational nature of man. Besides, pleasure, even intellectual pleasure, is something that *follows* from the possession of the good, and does not constitute it.

77. *Q.* Cannot virtue constitute the highest good?

*A.* No; not even virtue. Virtue is only the *right direction* of the will and the other powers, in keeping with the two great rules (No. 65). Hence it cannot be that *to which* they are directed.

78. *Q.* What conclusion have we to draw from all this?

*A.* This conclusion: that, as perfect happiness must be attainable, yet is not attainable in this life, it must be attainable in another life.

79. *Q.* What is this highest good?

*A.* It must be an object which contains truth, beyond which there is no knowing; and good, beyond which there is no willing.

80. *Q.* What is this object?



A. God alone, infinite truth and infinite good.

81. Q. Could there not be two highest goods or last ends?

A. No; for, either one would leave something beyond, and thus would not be highest or last. The one highest good is absolutely necessary and fully sufficient to constitute happiness.

82. Q. What then is the relation between this life and the other life in which man can obtain *that perfect possession* of the highest good *which constitutes* perfect happiness?

A. Since we cannot have perfect happiness here, then the absence of it must be either a privation incurred by some act of each one of us; or it must be, that, as we are free beings, we are to do something by our own *free* action towards the obtaining of perfect happiness. The first cannot be said, therefore the second remains to be held. The relation of this life towards the other is therefore that of a journey towards the terminus.

83. Q. What then have we to do?

A. To act up to the dignity of human nature. We must observe freely what reason points out to be the true order of things; keep our purposes in proper subordination; subject ourselves freely, as created beings, to the will of the Creator.

84. Q. But can we not attain partial happiness in this life?

A. Yes. But we must not forget the distinction between the true and the apparent good. True, partial happiness will be only in the choice of the true good; in the direct, deliberate tendency to such possession of the highest good as *cannot* ever have an end.

## ARTICLE IV. THE VOLUNTARY AND THE FREE.

Spontaneous Action — Voluntary and Involuntary Act — Elicited and Commanded Act — The Voluntary, Indirect, and Virtual — Distinction between Free and Voluntary.

85. *Q.* What have we seen thus far?

*A.* We have seen that the final purpose of the existence of man is a purpose of the Creator. This purpose must be something which regards the Creator. It cannot be anything to be added intrinsically to the Creator who is infinite. It must therefore be extrinsic. It is called the external glory of God, the knowledge and love of him, infinite Truth and infinite Good, by the created intelligence and will. Thus God's purpose, his external glory, is found precisely in that which constitutes the perfect happiness of man, the exercise of the distinctively human faculties upon the highest good of the human being. This perfect happiness cannot be attained in this life. We cannot know the highest truth as we would wish to know it; we cannot, on account of the attraction of lower goods, fix our will on the highest good in such way as to be sure that some time we shall not turn away from it. However, the highest good must be absolutely attainable in such way as to produce perfect happiness. This must be in another life. The immediate purpose of man's existence here is to tend to the final purpose by his own free will. This he has to do by acts distinctively human, by human acts. We shall have to make a further investigation of the human act.

86. *Q.* What, once more, is the human act?

*A.* That act is called a human act which is per-

formed by a human being, with knowledge of the nature of the act and with free will.

87. *Q.* What is a spontaneous action?

*A.* A spontaneous action is one that is performed without intellectual deliberation; as when a person draws his hand rapidly away from fire. It was an action performed, as we say, by instinct, and may be found in the brute animals. Man might, however, after deliberating, apply his hand again to the fire: the brute is incapable of any such action. Man, so applying his hand, would perform a voluntary act.

88. *Q.* What is a voluntary act?

*A.* It is an act performed with intellectual knowledge of the case in question; and with the direction of the will to it as so understood.

89. *Q.* When is an act involuntary?

*A.* An act is involuntary when it is done either without knowledge of the case in question; or, if with knowledge, still against the choice of the will. Thus one man may take another's umbrella, thinking it to be his own. He does not voluntarily take *another's* umbrella; because, not knowing it to be *another's*, his will is not directed to the taking of *another's* umbrella. Or, again, a man may wish to close his eyes and not to see. Somebody may keep his eyes open by force, and oblige him to see. He sees; he knows he is seeing: but it is against his will. The act of seeing is not voluntary.

90. *Q.* Can an act from which there is no escape become voluntary?

*A.* Yes; so soon as the will approves, the act becomes voluntary.

91. *Q.* Can an act be voluntary and yet be performed with some reluctance?

*A.* Yes; as when a merchant, in a storm at sea, to escape from shipwreck, throws his cargo overboard. He knows fully what he is doing; and chooses to do it *under the circumstances*. He wills to make the sacrifice in view of what he considers a greater good — the saving of his life. The same happens when one takes a bitter potion to free himself from sickness. He has a repugnance for the medicine; still he acts with knowledge and consent.

92. *Q.* How are voluntary acts divided?

*A.* Into *elicited* and *commanded* acts. An act which is in the will alone — which is performed solely by the will, as an act of love or hatred, is called an *elicited* act. An act that is performed by some other power, under the command of the will, is called a *commanded* act.

93. *Q.* Does the voluntariness of an act admit of degrees?

*A.* We may say that it does admit of degrees in the sense that there may be degrees of advertence to the nature of the act. Thus one who is half asleep or distracted will not have so clear a perception as will one who is perfectly attentive or wide awake; and his acts will not be regarded as in the same degree voluntary.

94. *Q.* Can an act be indirectly voluntary?

*A.* Yes. For though it may not be either elicited or commanded, directly, by the will, it may be foreseen as following from a voluntary act or omission. Thus the casting of the cargo overboard was *directly* voluntary; the consequences foreseen as resulting, indirectly voluntary.

95. *Q.* When is an act said to be virtually voluntary?

*A.* When it continues to be performed by virtue of, that is, by reason of a prior act of the will, even though

we may have forgotten that the act is still being performed. We start out with a companion to walk to a certain place. We get into a conversation, and forget whither we are going. Still, we continue on the way *in virtue* of the act of the will previously made.

96. *Q.* Which are the *elicited* acts of the will?

*A.* Love, desire, hope, content; and their opposites, hatred, aversion, despair, sadness.

Love is mere complacency in the good.

Desire is the wish for that good.

Hope is the elation of the will, when the desired good is seen to be attainable.

Content is what follows the possession of the good.

Hatred is displeasure at the sight or remembrance of evil.

Aversion is the turning of the will from evil, or it is desire to escape the evil.

Despair is depression of the will, at seeing the evil to be unavoidable, or at seeing the desired good to be unattainable.

Sadness is the condition of the will when the impending evil befalls or the desired good is lost.

97. *Q.* Which are the commanded acts?

*A.* All those acts are called *commanded* acts, which the human person can perform at the command of the will. The will can command the intellect, the imagination, the memory, the external senses, the power of locomotion, etc. The will cannot command the vegetative powers of the body.

98. *Q.* Does "free act" mean precisely the same as "voluntary act"?

*A.* Not precisely. We can understand how an act might be entirely voluntary, that is, altogether accord-

ing to the inclination of the will, yet not so free that the will could choose to have it omitted, or to do the contrary. Thus by the very necessity of our nature we must have a sort of general tendency towards our highest good and hence towards perfect happiness, so much so that it is not in our power to really wish deliberately to be absolutely miserable. This general wish for happiness motives all our acts. It is not free; we cannot choose misery as such. Yet though *not* free, it *is* voluntary; for it is an act of the will, is approved of by the will with knowledge of the case. It is to be specially noted, however, that, with the exception of this one particular instance, every voluntary act in our present state of existence is also a free act. This does not contradict what was said in No. 90. There the act up to the moment of approval was a purely forced act. From that moment it became equivalent by acceptance to a free commanded act. If we consider that other life with the highest good once attained and perfect happiness secured, then the enjoyment of that happiness will certainly be voluntary, for it will be an act of the will with full approbation and full knowledge of the case. Yet it will not be free. And why? Because then the will shall not be able to choose otherwise. The happiness will be perfect with the knowledge that it is perfect; so that the intellect cannot present to the will anything as containing an element wanting to its highest good or to its perfect happiness.

Having called attention to these two exceptions it will be understood that henceforth we use the word "voluntary" and "free" in the same sense. For in every other case the will is free to approve or not.

# ARTICLE V. CIRCUMSTANCES AFFECTING THE VOLUNTARY.

Ignorance and Concupiscence — Violence and Fear — Invincible, Vincible, and Studied Ignorance — A Forced Act — The Voluntary in the Habit.

99. *Q.* What circumstances can affect or diminish the voluntariness or freedom of an act?

*A.* Those that can affect either element required in the free act: namely, knowledge or free inclination of the will.

100. *Q.* What can affect the knowledge?

*A.* Ignorance and concupiscence.

101. *Q.* What can affect the free inclination of the will?

*A.* Violence and fear.

102. *Q.* What is ignorance?

*A.* Absence of knowledge.

103. *Q.* What knowledge may be wanting?

*A.* (1) Knowledge of the nature of an act;

(2) Knowledge of a law commanding or prohibiting the act;

(3) Knowledge of a penalty for doing or omitting the act.

104. *Q.* When is ignorance said to be invincible?

*A.* When it cannot be overcome by an investigation proportioned to the importance of the matter in question; or, when a suspicion of truth to be searched for does not enter the mind.

105. *Q.* When is ignorance said to be vincible?

*A.* When the lack of knowledge is adverted to, and can be corrected by, taking such time and pains

in searching, as may be due to the gravity of the case.

106. *Q.* What effect has invincible ignorance upon an act?

*A.* The act, so far as this invincible ignorance extends, cannot be voluntary. Such act, to the extent of the invincible ignorance, is not a *human act*. It lacks the two elements of the human act. It is neither known nor willed.

107. *Q.* Can you give an easy illustration of this?

*A.* Yes. We will suppose that a man makes an engagement for a certain hour. Other things, of course, occupy his attention in the meantime; and, without his fault or guilty neglect, the engagement passes entirely out of his mind. He has not a suspicion of the engagement or the hour. Or, again, he makes an engagement, say, for ten o'clock. He looks at his watch, a correct time-piece. It is half-past nine. He looks again. It is twenty minutes to ten. He has ample time, needing but ten minutes. He starts off, but he arrives too late. His watch had already been stopped five minutes. The mainspring had been broken. He thought he had leisure and took his time. He had exercised sufficient care to meet his engagement. In both cases there was invincible ignorance. The breaking of the engagement was not a human act in either case.

108. *Q.* Does the same hold for the positive act?

*A.* The same holds for the positive act as well as for the omission. A man shoots at a bear. The bear is just about to climb a slanting tree. It does not occur to the man to examine whether any one is in a dangerous position. It is a wild, uninhabited place, where he has not met any one for a week. Or, he does indeed



examine carefully and finds no one near. He calls out and gets no answer. In each case (in the second, for greater security,) he determines to send the ball through the bear and into the tree. The ball kills the bear, and it also kills a man hidden in the tree, which, though apparently sound, was decayed and hollow. In either case the killing of the man was not a human act. Invincible ignorance prevented it from being voluntary.

109. *Q.* Does vincible ignorance prevent an act from being voluntary?

*A.* No. For when one adverts to his ignorance, and does not take such measures to correct it as the gravity of the case demands, he thereby voluntarily accepts the consequences that follow from neglect of the care due to the gravity of the case.

110. *Q.* Does vincible ignorance diminish the voluntary nature of an act?

*A.* Vincible ignorance may be *affected, studied, aimed at*, for the sake of not knowing the case, and this certainly does not diminish the voluntariness of an act done in such ignorance. Vincible ignorance may, however, not be studied, it may be the result of slothfulness; one does not want to go to the trouble of an investigation. We do not suppose that the person here has the will to choose one way or the other. If he knew the right he would do it; but he is too lazy to examine. Hence, if he does wrong, it is voluntary in his voluntary ignorance. In the previous case of *affected* ignorance we suppose the person's will to be fixed upon acting in one particular way. He suspects, indeed, that it may be wrong, but he keeps himself in ignorance that he may not act with the certainty that he is doing wrong. It is easy to see that if the wrong is done in this studied

ignorance it is fully voluntary. If wrong is done simply because a person is too slothful to find out the right, the ignorance is also fully voluntary; still the wrong done in it is not *so* voluntary as in the case of affected ignorance. For the man would choose what is right if he knew it, but he is too slothful to enquire.

111. *Q.* What is concupiscence?

*A.* It is the tendency of the senses towards sensible pleasures.

112. *Q.* Does this tendency diminish voluntariness in the choice of sensible pleasure?

*A.* Certainly not, if the tendency is stimulated by a free act of the will. But when the tendency is stimulated independently of the will, against the will, then the will finds itself confronted by a resistance not of its own creation, and which requires an effort on the part of the will to master. In proportion as the vehemence of the unsought tendency grows greater, in the same proportion is the effort required to resist, greater; and in this sense is the voluntariness of an act of the will yielding, said to diminish. However, the liberty of the will is never totally destroyed, unless the solicitation be so strong as to hinder the free use of reason.

113. *Q.* What is fear?

*A.* Fear is a disturbance of the mind arising from impending evil.

114. *Q.* Does an act done through fear cease to be voluntary?

*A.* Not unless the fear destroys the right use of reason.

115. *Q.* In what sense or when can fear be said to affect the voluntariness of an act?

*A.* In this sense: that, were it not for the fear, the

act would not be willed. The act is not at all desired *in itself*, but only as a means to escape from an evil that is feared. Thus, a merchant in a storm at sea throws his cargo overboard. He knows fully what he is doing, and chooses to do it under the circumstances. He makes the sacrifice in order to avoid what he regards as a greater loss, the loss of his life. So also one will take a bitter medicine to avert a dangerous illness. In both cases there remains an aversion to the thing which is done—the throwing away of the goods and the taking of the medicine. Still both are voluntary, as the person retains the power not to do them. In the sense then that a thing is done only through fear, and would not otherwise be done, fear is said to diminish the voluntariness of an act.

116. *Q.* Does force render an act involuntary?

*A.* An act that is *simply forced* is purely involuntary; and it remains purely involuntary, so long as the will stands in opposition.

117. *Q.* What kind of acts may be forced?

*A.* Only such as may be commanded acts. The elicited act—that is, the pure act of the will—can never be forced; for, to be a pure act of the will, it must be purely voluntary.

118. *Q.* What is required that an act may be said to be forced?

*A.* That an act may be said to be purely forced, it must be brought about by a *power* altogether *external* to the will; and—in case it be adverted to—also *against* the *choice* of the will. Thus a person may be forced *to see* by having his eyes kept open by some one else, against his will and in spite of all resistance. Or, a person may be forced to stand still—though he de-

sires to walk, and tries to walk, — because a stronger person holds him fast. The *seeing* and the *standing still* are purely involuntary.

119. *Q.* What is to be said of acts that are performed unconsciously, through mere habit?

*A.* If the habit was voluntarily acquired, such acts are voluntary in the cause. However, if a person applies himself to overcome a habit, and, nevertheless, some acts escape him, through inadvertence, these acts can hardly be so voluntary as they would be were he not striving to overcome the habit he had voluntarily formed or continued.

## CHAPTER III. MORALITY.

### ARTICLE I. MORAL GOOD AND MORAL EVIL.

**Morality**—It belongs to the Human Act—Moral Good and Moral Evil—The Keeping or Disturbing of the Natural Order of Things—Man's Relations in the Natural Order of Things—Moral Good and Moral Evil for Man—The Human Act, Morally Good, keeps Man directed towards his Last End—The Word "Moral."

120. *Q.* What is meant by morality.

*A.* That which constitutes a thing good or bad, in the sense that it is right or wrong to will it.

121. *Q.* How do we here limit the application of the terms, *good* and *bad*?

*A.* We here limit the terms, good and bad, to the extent in which they are applicable to the *human being*, so that for the act in question the individual acting may be called a *good* or *bad man*. One may be a good man and not be a good mechanic; and one may be a very good mechanic, etc., and yet be a very bad man. Moral good and moral evil characterize the acts of the *man* as *man*, that is, the free acts of a free rational being. What might be good for the man, considered merely in his animal nature, might be bad for the entire personality, *man*, taken as a unit.

122. *Q.* Are there some things, some acts, which in themselves without further consideration, are morally

good or morally bad, in the sense that it is right or wrong to do them?

A. Yes.

123. Q. What easy argument have we to prove this?

A. (1) The uniform, universal, and constant testimony of the whole human race;

(2) The special testimony of our own minds which naturally and always approve or condemn certain acts;

(3) The peculiar testimony of pagan nations which, though they were practically given up to vices in general, retained the names *good* and *bad* for certain acts. Thus they never approved of blasphemy, theft, calumny; and always praised religion, justice, filial piety, etc.

124. Q. Wherein then do *moral good* and *moral evil* consist?

A. In conformity with or discrepancy from the natural order of things. Though whole nations have been sunk in vice, no nation has ever entirely lost the idea of a certain fitness of certain actions and a certain unfitness of other actions for the free choice of the will. Their agreement upon these actions shows that they judged from the nature of things. And they rewarded or punished, as *good* or *bad* in themselves, the one kind or the other.

125. Q. How does man stand in this natural order of things?

A. He stands, —

(1) As a *created being* dependent upon his Creator;

(2) As *part* of the created universe;

(3) As a being endowed with various faculties, sensitive, and purely spiritual.

126. Q. What relations arise from this position of man in the general order of things?

A. The following relations :—

(1) Towards God, a relation of total dependence ;

(2) Towards the created beings of the universe, a relation of superiority and dominion as regards the irrational part ; and a relation of equality as regards the rest of men ;

(3) Between the faculties, certain relations of order — subordination of the lower to the higher, and between the lower faculties a certain co-ordination as tending to their general subordination.

127. Q. Upon what are all these relations founded ?

A. Upon the very nature, essences of things. Hence these relations are as unchangeable as the essences of things.

128. Q. What then is *good* for *man* or morally good ?

A. The conformity of his actions, as man, with these his essential relations.

129. Q. What is morally *bad* for *man* ?

A. The non-conformity of his human acts with these his essential relations ; that is, with the order established by his essential relations.

130. Q. Has moral good or moral evil anything to do with the reaching of man's last end, his highest good, and with the attaining of perfect happiness ?

A. Yes ; for morality is simply the right direction of our actions to the last end or highest good. Man can tend to his perfection not otherwise than by acting in harmony with these established essential relations which he cannot destroy ; and by regulating the use of his faculties according to that natural subordination which exists between them. Anything else would be a disturbance, would be in opposition to the very demands of human nature ; and hence, not conducive to the

perfection of human nature, not conducive to happiness.

131. *Q.* What then is the meaning of the word *moral*?

*A.* The word *moral* comes from the Latin word *moralis*. The word *moralis* comes from the word *mores* (*mos, moris*) which means *habits*. However, it does not mean *habits* in the sense in which we say the habits of the bee, the habits of the seal, etc. The irrational animals have their habits by nature, from the time of birth. These habits they do not change, nor are they capable of making a deliberate change. Man, however, can *acquire* habits of his own *free will*. *Moral* philosophy is the study of those habits which are befitting to human nature, to man; which tend to preserve his essential relations and keep him directed to his last end. Such habits are said to be *morally* good; the opposite habits are said to be morally bad. And as these habits are acquired by a repetition of individual acts, so also the individual act is said to be *morally good* or *morally bad*, as tending to establish the good or bad habit.



## ARTICLE II. DETERMINANTS OF MORALITY.

Determinants of Morality—Purpose, Means, Circumstances—End does not justify Means—Circumstances: Relevant, Irrelevant, Aggravating, Extenuating, Specifying—Act: when Materially or Formally Bad—The Intention or Desire not accomplished—The Indifferent Act.

132. *Q.* In determining the morality of an act of the will, how many things have to be taken into consideration?



*A.* Three things:—

(1) The purpose of the will;

(2) The nature of all the acts commanded or elicited towards that purpose;

(3) The circumstances of all these purposes or acts intended finally or intermediately. These three elements taken together form one complex object to which the will is directed. If any one of these violates the essential relations of the individual willing, the act of the will is morally bad.

133. *Q.* What then is required that the act of the will be morally good?

*A.* It is necessary that the final purpose, all the intermediate purposes (or the means willed) and the circumstances of all the purposes be in keeping with man's essential relations or be morally good.

134. *Q.* What is sufficient to make an act of the will morally bad?

*A.* It is sufficient that there be a defect in any of the requisites just mentioned.

135. *Q.* Which is the chief determinant of the morality of the act of the will?

*A.* The final purpose, because it is the chief thing on which the will is fixed, to which it directs all else, and without which it would not act.

136. *Q.* Does a bad means, or intermediate purpose, become good by reason of being directed to a good end or good further purpose?

*A.* Never. The end and the means directed towards it become one complex object as willed by the will. So that if the means be evil, the will cannot aim, even at a good end through such means, without performing an act that is morally bad. Furthermore, if the final pur-

pose be evil, this purpose vitiates the act of the will choosing *any* means to arrive at it, even though said means, in itself considered, would not be bad; for, the will, so choosing, chooses such means, not as in itself considered, but, *complexly*, as means — to — a — bad — end. A good end cannot justify a bad means. A bad end vitiates the use of even a good means.

137. *Q.* What is meant by the *circumstances*?

*A.* Something peculiar in the person acting or the thing done, the place, time, or manner of the action; from which there may sometimes arise even special relations which would not exist in other *circumstances*.

*The person acting.* Thus: a man has been fairly tried and rightfully condemned to death on the clearest evidence which he himself substantiates by his own confession. If he be executed *by a lawfully authorized person*, the killing will be an act of *justice*. But if he be put to death by a *private individual*, through motives of vengeance, the killing will be *murder*.

*The thing done.* The giving away of money can be an *alms* if it be one's own money. It will be *theft* if it be another's money.

*The place.* Thus: an evil deed may contract a new species of evil by the place in which it is done; a sacred or public place, for instance, adding to it the character of sacrilege or scandal.

138. *Q.* What is a relevant circumstance?

*A.* One that affects the morality of an act as good or bad. Thus, in the giving of money, the giving to a poor man who wants to buy bread; or the giving to an intemperate man who asks it that he may intoxicate himself.

139. *Q.* What is an irrelevant circumstance?

*A.* One that does not affect the morality of an act as good or bad. Thus it does not affect an act, to make it good or bad, whether one gives alms at the door or through the window, or whether one intoxicates himself in the east room or the west room.

140. *Q.* What is an aggravating circumstance?

*A.* One that increases the degree of moral goodness or moral badness of the act in the same kind; as if one makes a *greater alms* or nurses his *anger longer*.

141. *Q.* What is an extenuating circumstance?

*A.* One that diminishes the moral goodness or moral badness of the act in the same kind.

142. *Q.* What is a specifying circumstance?

*A.* One that carries with it a new kind or species of moral goodness or moral evil. Thus to be charitable is good. Charity to our enemies adds a new kind of moral goodness, *i.e.* forgiveness.

143. *Q.* Has the knowledge or ignorance of the exact nature of the *whole* case anything to do with the morality of the act of the will willing?

*A.* Yes. The act of the will is morally good or bad and in such species of goodness or badness, not precisely according to the exact nature of the thing done as it is in itself, and of the circumstances as they are in themselves; but as they are *known* to be or even, through mistake, thought to be. We must here call to mind all that has been said about ignorance as affecting the *human act* of which we are always speaking. An act may be *materially* bad, that is, in itself, and at the same time it may not be *formally* bad, as a human act, because the element of knowledge of its badness is inculpably lacking.

144. *Q.* Will the act of the will be nevertheless

morally good or bad, according to the nature of the act intended, though the effect it intends to bring about does not follow?

A. The consequent or non-consequent effect does not change the nature of the act of the will really willing or intending. He who really wills to kill another, and yet does not kill simply because he does not find an opportunity, is guilty, so long as his will lasts, of the same kind of moral evil as he who wishes to kill and does kill. His will has been deliberately directed to the same kind of moral evil. Commonly, however, the actual doing indicates greater intensity and perseverance on the part of the will.

145. Q. Is every human act in itself either morally good or morally bad?

A. No. There are acts which, in themselves considered, are neither to be styled morally good nor morally bad. They are styled *indifferent* actions. *To speak* or *to walk* or *to read* cannot be styled morally good or morally bad, considered apart by itself; but it may become one or the other by reason of the circumstances. It will make quite a difference *what* a person speaks or reads, or *why* he speaks or reads or walks. Walking, in *itself*, is not bad; *walking-for-the-purpose-of committing-a-theft* is bad, by reason of the purpose running through the act; and he does wrong who walks for the evil purpose.

## ARTICLE III. FALSE VIEWS.

Opinion or Human Law does not affect the Intrinsic Morality of an Act—No Rule of Morality in Atheism, Pantheism, Materialism—The So-called “Moral Sense.”

146. *Q.* Can the opinion of men change the morality of an act, so that, opinion changing, what was wrong, for instance, may become right?

*A.* The opinion of men has nothing to do with the nature of good and evil; and hence nothing to do with the nature of right and wrong. The difference between good and evil, right and wrong, is founded on the very nature of things; and the nature of things cannot be changed by any opinions of men.

147. *Q.* Can the law of a State make an act right or wrong?

*A.* No law of any State can affect the nature of an act as it is in itself, so as to make good evil; or evil, good. But there are certain indifferent acts whose omission, and certain others whose performance, may be detrimental to the true public welfare. These the law may prohibit or command. The nature of the act does not change. But it becomes intimately connected with an order of things which it is right to keep and wrong to disturb.

148. *Q.* What about the morality of Atheists, Pantheists, Materialists?

*A.* They can form no settled notions of morality, of right or wrong. The Atheist denying, in words, the existence of God, denies the basis of morality. The Pantheist, making himself God, denies all obligation. The Materialist, denying the spiritual soul, denying

free will, puts an end to all morality, to all distinction between good and evil.

149. *Q.* By what faculty are we to distinguish moral good or moral evil in an action?

*A.* By our intellect, just as we perceive other truths. Moral good is the conformity, moral evil the non-conformity of an act with our essential relations. The truth of this conformity is to be perceived by the intellect only.

150. *Q.* Why then do we sometimes speak of a *moral sense*?

*A.* We do so merely by a transfer or rather a misuse of terms. When we say a person has no *moral sense* or *sense of morality*, we mean that such person does not show sensibly the horror that good persons usually exhibit outwardly at the presence of evil, or that the person does evil so readily as not to seem to distinguish between good and evil. And just as we transfer the word *see* (which implies the sensible ocular vision) to express intellectual perception of truth, saying that we *see* a truth, so do we employ the words, *moral sense*, when we mean the intelligence, as the means we possess of perceiving, appreciating the morality of an action.



#### ARTICLE IV. IMPUTABILITY.

**Imputability — Attributable and Imputable — An Act Imputable in so far as Voluntary.**

151. *Q.* When is an action attributable to an agent?

*A.* Any action that proceeds from an agent is attributable to the agent, whether the agent act with liberty

or not. Thus heat is attributable to the sun; health to a climate. Any effect is attributable to any of its causes, entire or partial, to the extent to which they are causes of the effect.

152. *Q.* Is every action also said to be imputable to the agent from which it proceeds?

*A.* No. Though in common discourse, the words *attributable*, *imputable*, *to attribute*, *to impute*, are sometimes used synonymously, still in the strict philosophical sense, the word *imputable* is the more limited. It is applied only where the agent acts with knowledge and liberty. A headache may be attributed to overwork. It will not be imputed to overwork. It may be imputed to the person who has knowingly strained himself by overwork. In the *strictest* philosophical sense, the word *imputable* is applied to actions (whether elicited or commanded) which are regarded as *morally good* or *morally bad*. And these actions are said to be morally imputable to the person who by his free will elicits or commands them.

153. *Q.* In how far is moral good or moral evil imputable to a person?

*A.* In so far as it proceeds from or is adopted by the person knowingly and willingly.

154. *Q.* Do ignorance, fear, concupiscence, force, affect the imputability of an act?

*A.* They do just in so far as they affect the voluntariness of an act.

155. *Q.* Can the acts of one person be morally imputable to another?

*A.* Yes; whenever and in so far as the other is knowingly and willingly the cause of the act, whether by counsel, command, consent, praise, blame, participation, etc.

## CHAPTER IV. LAW.



### ARTICLE I. THE MORAL LAW.

Law — The Moral Law — Its Binding Force — Law, Rule, and Precept — Characters of Law — Binding only when Promulgated.

156. *Q.* What do we understand by the word *law*?

*A.* By *law* we understand some constant and uniform method of procedure followed or to be followed by a class of beings; and to which that class is in a sense bound.

157. *Q.* Do all laws bind in the same way?

*A.* No. When, for instance, we speak of the *laws* of *falling bodies* we mean the constant, uniform method, according to which bodies fall, to which they are bound by a certain necessity, and from which they cannot escape. When on the other hand we speak of the laws of grammar we refer to constant methods which men follow in speech, but to which they feel bound only by convention.

158. *Q.* What kind of law do we speak of in ethics?

*A.* The moral law.

159. *Q.* What is the moral law?

*A.* A constant uniform method of action, which, if followed, will keep man's essential relations undisturbed.

160. *Q.* Why do you say *if followed*?

*A.* Because though it is a law and really binds, still



man has it in his power by his own free will to go against it. His will is, as we say, physically free.

161. *Q.* Why is this law called the moral law?

*A.* Because it regards the keeping of the moral order, the doing of moral good, and the avoidance of moral evil.

162. *Q.* As law is said to bind, from whom does it get its binding force?

*A.* From some one who has power to give it binding force.

163. *Q.* What is such a one called?

*A.* A Superior.

164. *Q.* How is the binding force of a law measured?

*A.* By the power the Superior has to bind and by his will to use that power.

165. *Q.* But if the human will is physically free, who has power to define the limits within which that physical liberty is to be used?

*A.* The Creator of the human will, who made it what it is.

166. *Q.* What is the difference between a law and a rule?

*A.* *Rule* is a general term which is sometimes used to signify *law*. Strictly speaking a rule is given for *direction*; law is given *to oblige*.

167. *Q.* What is the difference between a law and a precept?

*A.* The word *law* means the same as the word *precept*. But *law* is employed only to signify what has a public character; and *precept* is applied to commands given to individuals. Law is, indeed, a public general precept; and precept is a private personal law.

168. *Q.* What therefore are the characters of *law*, as we used the word?

*A.* The following:—

(1) Law comes from the will of the superior of a public body, as of the human race or of a nation.

(2) Law is intended for the whole community.

(3) It is intended for the good of that whole community.

(4) It is intended to have permanency.

169. *Q.* What circumstance is necessary that law shall have its binding force, and that its violation may be imputable to the will?

*A.* It is necessary that the law be promulgated, that is, so published that it may be known by those for whom it is intended. For, one who is invincibly ignorant of a law cannot will to violate the law. And if the law is not sufficiently published to him, he is certainly invincibly ignorant of it. Hence, although he may do the deed prohibited by the law or omit the deed commanded by the law, yet his will is not directed to such deed or omission as a violation of the law.



## ARTICLE II. THE NATURAL LAW.

**The Natural Law—Its Existence—Readily Known—A Special Testimony—The Natural Law is Divine—It is that Part of the Eternal Law which applies to Man's Free Acts—Natural Law is Unchangeable, Irrevocable.**

170. *Q.* What is the natural law?

*A.* The natural law is a body of precepts which are founded upon the very nature of things, which tend to the natural perfection of man (are the rule of man's perfection), and which can be—and are in more or less definite outline—naturally known to all men.

171. *Q.* Have we indications that the human race has recognized the existence of such law?

*A.* Yes. For, (1) All mankind have always judged certain actions to be good; certain others to be bad.

(2) All men have judged that there existed and exists a certain obligation of doing the good and avoiding the bad. Hence they have recognized the existence of a superior imposing this obligation.

(3) All men have always judged this obligation to exist for all mankind, and to extend even to internal elicited acts.

172. *Q.* Is this law, then, so readily known?

*A.* Yes; in its more general precepts. For we can readily know by the light of reason (1) That certain actions are good and certain others bad, and that certain omissions are bad; (2) That there is an All-wise Creator; (3) That he wishes the order of his Creation to be observed by each being according to its nature; that is, necessarily by those beings that have not free will, and freely by those to whom he has given liberty of action.

173. *Q.* Have we also in the judgment of men a very strong special testimony to the existence of the natural law?

*A.* Yes. We have it in the judgments even of men of depraved lives, who, though they look on the law as a burden, and would gladly be rid of it to follow, without reproach, the lives of brutes, still do not deny the existence of the law, and, in their hearts, look up to those who keep it.

174. *Q.* Is this law a divine law?

*A.* It is a divine law because it is the command of God.

175. *Q.* Should it be called an eternal law, or a temporal law?

*A.* It is an *eternal* law in the sense that it was willed from eternity, though to be observed in time. It is a *temporal* law in the sense that it could be known and kept by man only after his creation.

176. *Q.* Do we, then, mean the same thing by the expressions *eternal law* and *natural law*?

*A.* Not precisely. The expression, *eternal law*, has the wider signification.

God wills to bind his creatures to certain lines of action, in keeping with the nature he has given them. Decreeing from eternity to create, this, also, from eternity he willed. Hence his will, or decree, that they should so act is called the Eternal Law. It extends to every created being, whether free and intelligent or not. With regard to all physical effects through the universe, where the action of a free will is not concerned, this law is executed by the necessary action of the nature of things. But free beings, in so far as their freedom goes, it does not necessitate; otherwise they would not be free. Them it *obliges*. It binds them without forcing them. Hence, the term "*eternal law*," is used to signify the divine will with reference to the whole creation. The "*natural law*," considered as contained in the *eternal law*, signifies the divine will, in reference to the physically free acts of man, and as such will is naturally knowable by reason.

177. *Q.* Can the natural law change?

*A.* No. Because it is founded upon the very nature of things. That which is of its nature good cannot become of its nature bad; and that which is of its nature bad cannot become of its nature good. Hence, the law commanding according to the nature of things cannot change. Human nature remains always the same;

hence, also, the law by which it must be guided to its unchangeable end.

178. *Q.* Cannot man be freed from the observance of the natural law?

*A.* No. Because the natural law contains those precepts without which man cannot fulfil the object of his existence.

179. *Q.* May it not happen that a person be ignorant of the natural law, and thus be excused from its observance?

*A.* Invincible ignorance, of course, excuses always from culpability, but no one can be invincibly ignorant of the fundamental precepts of the natural law.

180. *Q.* Still, how does it happen that what is good in one instance may be bad in another?

*A.* This only seems to happen. The thing is not really the same in the two cases. Thus, the killing of a man is evil, if it be done by a private individual taking vengeance on his enemy. But it is not evil if it be done by the proper public official, in carrying out a just law in the execution of a criminal.



### ARTICLE III. PROMULGATION OF THE NATURAL LAW.

Natural Law promulgated by Reason — Reason not the Law — False Position of Kant — How Rectified — What is meant by the Expression, "Law of Reason."

181. *Q.* How is this natural law promulgated?

*A.* It is promulgated by reason to the will.

182. *Q.* How does reason make known the existence of such a law?

*A.* As has often been stated, —

(1) By pure reason we can learn the existence of God.

(2) By pure reason we can learn that God is our last end and highest good.

(3) Pure reason can teach us that the natural aim and purpose of our existence is to tend to that last end and highest good. Hence also does it teach us that God, the author of our existence, wishes us to aim at this highest good. God, therefore, wishes us to adopt that line of conduct which is necessary to the end. But we know that there are certain actions which we must perform, and others which we must avoid, in order to keep our lives directed to the last end. This being so, we know that God wishes us to do the one kind and to avoid the other.

183. *Q.* Can we say then that reason is the natural law?

*A.* No. Reason is not a law; nor does it make a law. Reason only points out the law. Reason does not impose an obligation; it merely makes known the obligation. A law can be imposed by no other than a superior. But our reason is not our superior. Reason is only one of our faculties. Moreover, the imposing of the law is an act of will; hence law cannot be reason nor an act of reason.

184. *Q.* What false position has been assumed by some writers in this regard?

*A.* The false position taken by Immanuel Kant, in the last century, that there can be what is called "independent morality." Kant assumed reason to be the ultimate basis of obligation; the final sole source of any obligation thus being that the contrary, opposite, or contradictory is against reason—or, in other words, unreasonable. This is a false position because it makes man a law-giver to himself; whereas man cannot give

a law to himself, because he is not his own superior — jurisdiction demanding distinction of persons. Besides, reason does not constitute the source of the obligation ; it merely recognizes the existence of the obligation. Law must be imposed by the will of a person, and of a person distinct from the one upon whom the obligation is imposed. Hence, according to the assumption of Kant and his followers, there can be no obligation of any kind at any time. Whence, it would follow that there could be no right or wrong in human action, and therefore no practical morality. The dictate of reason pointing out the obligation does not create the obligation, or in other words, there is no such thing as “independent morality,” — that is, morality without the law-giver prescribing the natural law. Under the assumption of Kant, if a man chooses to go against his reason, or, in other words, to do what we all recognize as evil, he can be called to account by no one ; for the Kantian doctrine releases man from all authority, making him amenable to his own reason only, which is not and cannot be a law-giver. Thus there could be at most what is called a “philosophical” sin ; and the most that could be done to any wrong-doer would be to say to him that he has not acted reasonably ; it being impossible for him to become strictly a law-breaker, in a theory which takes no account of the essence of law as coming from a real law-maker.

185. *Q.* How are we to rectify the Kantian position ?

*A.* By recognizing that there can be no obligation which is not from a will, and that will even the will of the Creator, whose will is that we should act *according* to our reason. Thus what in Kantism, if in regard to the human act, is said to be merely unreasonable, or

“philosophical” wrong, is seen to be theological wrong. It is sin. It is the violation of the law proper — the violation of the ordination of a superior.

186. *Q.* But do we not sometimes call the natural law the law of reason?

*A.* Yes. But we mean by this that it is discoverable by reason; not that it is made by reason.

187. *Q.* But if a law requires a superior, how does it happen that man can and does, really, sometimes, bind himself?

*A.* We repeat it, a man is not his own superior; he cannot bind himself. He may freely put himself in a position where he will be bound by a law which he has not made. Thus when a man gives his solemn word or signs a just contract, he is bound not by the word or writing, but he is bound by the natural law to keep his solemn promise given. He merely puts a condition, the giving of his solemn promise, whereby he places himself in the circumstances where this particular law previously existing — the law of keeping one’s word — finds an application.



#### ARTICLE IV. OBLIGATION.

**Obligation — Physical and Moral Freedom — Foundation of Obligation — Mistake of Rationalists — Office of Reason — Law Prior to Obligation.**

188. *Q.* What is an obligation?

*A.* An obligation is a certain necessity under which the will may lie of acting in one way rather than in another.

189. *Q.* Does the will still remain free to act in the other way?



*A.* Yes, it remains physically free ; but not, as it is said, morally free. By the physical power it is *able* to choose the contrary ; by reason of the moral obligation it *may not*. Thus a man may have the physical power to steal or not to steal, but he is not morally free ; he is under an obligation not to steal.

190. *Q.* On what is obligation founded ?

*A.* On the will of the Creator. And when one human will is morally bound to obey another, this obligation exists only because such obedience is according to the essential relations of the will obeying, and is, thus, the will of the Creator.

191. *Q.* How do those who call themselves “ration-  
alists” go astray on the question of obligation ?

*A.* In the same manner as those who follow the doctrines of Kant ; that is, by deriving the binding force of all law from reason.

192. *Q.* How, again, is this incorrect ?

*A.* (1) In deriving the binding force of law from reason instead of from will.

(2) In making each man at the same time the superior commanding and the subject obeying ; whereas a man can be only just equal to himself.

(3) In making each man thus appoint his own necessary end. This no man can do, for he has the end appointed for him by the Creator of human nature. Neither can he appoint, as he pleases, the means necessary to the end ; for these again would involve an obligation, and he cannot impose an obligation upon himself.

193. *Q.* What then does reason do ?

*A.* Reason merely perceives and proclaims the law.

194. *Q.* But if reason simply proclaims a law which

comes from God, how is it that we do not think of God commanding?

*A.* It is not necessary that we should, at each moment, think explicitly of God commanding. We have what is called habitual knowledge. It is so in all the affairs of life. When we make complicated calculations with numbers we do not reduce everything back to the fundamental rules of arithmetic on which these calculations are based. Neither, when we speak correctly, do we keep our minds fixed upon the rules of grammar; though, at the same time, we are conscious of what we have done, when at any time we may have violated them. We eat to live and to be strong enough to perform our duties; yet we do not always call this to mind when we sit down to dinner.

195. *Q.* But can we not conceive of an obligation to do certain actions and to avoid certain others even prior to the existence of law?

*A.* No. The necessity of doing certain actions and of avoiding certain others to reach the last end, is the foundation for the law. Law is not constituted by the nature of an action nor by the perception of its nature; though the nature of the action serves as the foundation for the law. Even in civil matters, for instance, the needs of a city are the reason for making city laws, still neither the needs of the city, nor the knowledge of these needs, separate or together, suffice to make a law. The law must come from a will.

## ARTICLE V. KNOWLEDGE OF THE NATURAL LAW.

Knowledge of the Natural Law — Fundamental Principles — Immediate and Remote Conclusions — The First Principle.

196. *Q.* Are all the precepts of the natural law known by us with the same readiness?

*A.* No. We can perceive directly certain general fundamental principles or precepts. Such are the precepts: "Do good and avoid evil," "Keep the essential order," "Be by your free will what the perfection of human nature requires."

From these general precepts we can very readily reason to certain other precepts, as *immediate* conclusions. Some such immediate conclusions are: "Worship God," "Honor your parents," "Do not to others what you would not have them do to you."

From the preceding we can still go on reasoning to further or more remote conclusions, thus going into the details of the law.

197. *Q.* Are the general principles so easily known?

*A.* Yes. The history of peoples proves it. All peoples have recognized these principles. If it were possible for them to be totally unknown some race of people would have been ignorant of them. They are recognized even by children.

198. *Q.* What of the more immediate conclusions?

*A.* They comprise such precepts as are in the decalogue. They are easily deduced from the fundamental precepts. Experience proves that they cannot be invincibly unknown for a long time.

199. *Q.* What argument against so-called atheists can be drawn from this?

*A.* These men, so-called atheists, do admit moral obligation, at least in words; therefore they must admit the existence of a superior imposing the obligation, God.

200. *Q.* If the law is so clear, why are there so many disputes about good and evil, right and wrong?

*A.* The dispute is not about the general principles, but about certain applications which reason has to make in certain particular complicated circumstances.

201. *Q.* Still if the law is so universally known, why is it that we often find large bodies of people sometimes violating one or another precept?

*A.* This happens not for want of knowledge, but in spite of knowledge: it comes from a wilful choice of evil.

202. *Q.* Is there any first principle of the natural law?

*A.* Yes.

203. *Q.* Which one is it?

*A.* The one from which all others are deduced, and to which they are all reducible.

204. *Q.* How is this principle expressed?

*A.* It may be expressed in various terms. The simplest expression of it is in the following form: "Do good and avoid evil."

205. *Q.* What, once more, is good with reference to man?

*A.* Whatever is necessary to preserve his essential relations.

206. *Q.* What is evil with reference to man?

*A.* Whatever disturbs his essential relations.

207. *Q.* Which, or of what kind, are these essential relations?

*A.* Relations towards God, towards other men, towards himself.

## ARTICLE VI. COMMAND AND PROHIBITION.

## Affirmative and Negative Precepts — How they Oblige.

208. *Q.* How many kinds or classes of precepts are there in the natural law?

*A.* Two classes; negative and affirmative precepts.

Negative precepts of the natural law prohibit actions which are bad in themselves, such as blasphemy, parricide, etc.

Affirmative precepts of the natural law command actions which are necessary for the preservation of man's essential relations, and whose opposites are, therefore, in themselves bad.

209. *Q.* How do the negative precepts of the natural law oblige?

*A.* They oblige all persons, always, and at all times; that is to say, there is no occasion when the actual fulfilment of the precept, which is one of abstention, ceases. Such is the precept, not to steal.

210. *Q.* How do the affirmative precepts of the natural law oblige?

*A.* They also oblige always, in the sense that they are never revoked and that they may not be violated at any time; but they do not oblige in the sense that they must be put into execution at every moment as must the negative precepts of abstention. Thus by a negative precept we must abstain from theft continually; but the affirmative precept, which ordains that external honor be shown to parents, does not oblige us to be constantly performing external actions that indicate respect. Such actions are to be performed when the occasion calls for them. However, affirmative precepts

do bind at every moment in the sense in which they may be construed as negative; thus, there is no moment when we may dishonor our parents.



## ARTICLE VII. SANCTION OF LAW.

**Sanction—Sanction of the Natural Law—Natural Consequence of Violated Law—Partial and Complete Sanction—Sanction known—Threefold Sanction.**

211. *Q.* What is the sanction of a law?

*A.* By the sanction of a law we mean the safeguard put by the legislator for the observance of the law. It is the reward for its observance and the punishment for its violation. Very often, however, we apply the word, sanction, simply to the punishment appointed for transgressors of the law.

212. *Q.* Is there a sanction for the natural law?

*A.* Reason tells us there must be a sanction.

(1) We know that a just and wise superior will act differently with those who observe and those who despise his law.

(2) We know that though the human will should obey through the pure motive of obligation, still a sanction is necessary for the generality of men, especially when they are moved by strong passion. Hence the Supreme Legislator will take such means, present such motives as may and should be deemed sufficient or necessary to urge the generality of men to keep the law.

(3) Moreover, we know by experience that it is only the conviction of the existence of such sanction that does keep the generality of men within the law; and

that if the sanction were removed they would, in passion, throw off the observance of the law.

213. *Q.* Does the violation of the natural law carry with it its own sanction?

*A.* Yes. The law of any nature is to tend to its own perfection. If this tendency be impeded, that perfection will not be reached. Man's perfection lies in that which also constitutes his happiness. If he abjures the law of his nature he will not reach happiness. Thus far, misery is a natural result of the violation of the law; and being according to the nature of things, is the will of the Author of human nature. And men, as a fact, do not consider that there is a law, where there is no sanction.

214. *Q.* Is the sanction for the natural law found in the present life?

*A.* Partially. We must say that it is in keeping with the nature of things, that it should be found partially in this life. The sanction must begin, though unnoticed, with the violation of the law. We know, even by experience, that virtue, or the observance of the law, brings peace of mind; and that vice brings bitterness of soul, however much men may dissemble. Temperance in all things very naturally brings health and strength of body; whilst intemperance is followed by disease and accelerates death. Virtue is followed by esteem, and vice by contempt. Even amongst nations, those are happy where virtue is fostered and flourishes; those tend rapidly to dissolution where vice is unchecked.

215. *Q.* Is the sanction, here referred to, a perfect and complete sanction?

*A.* No. For, it is not of itself sufficient to safeguard

the law. It has not been and is not so regarded by men generally.

216. *Q.* What are we to conclude from this?

*A.* That as there must be a perfect sanction, its execution must be sought in another life. The sanction in the present life is not sufficient. And the justice and sanctity of the Creator and Law-giver demand that, at the end, due retribution be meted out to those whose wills are fixed in contempt for his law.

217. *Q.* Is the existence of such sanction generally known?

*A.* Yes. All peoples, ancient and modern, civilized and uncivilized, have always professed their belief in it.

218. *Q.* What is this sanction in another life?

*A.* It must be, at least, the privation of perfect happiness—the innate tendency to happiness still remaining together with the knowledge that the possibility of reaching happiness has been deliberately rejected.

219. *Q.* But does the sanction, the punishment, terminate here?

*A.* There must be something else connected with the not reaching the end. The wrong-doing contains two things: the turning from the true end and the turning to something which is not the end, and for which the true end is rejected. It is natural that this very adoption of the false for the true should bring with itself its own punishment. This holds throughout all nature. The substitution of the false for the true implies not only the loss of the true, but also the pain necessarily attendant upon the insufficiency of the false for the purpose aimed at, and the absolute impossibility of adapting it to said purpose. A false end chosen, one unfitted to human nature, must bring its pain with it.



The principle holds universally, for choice of means and for choice of end. The purpose of food is to sustain the body. Now if one rejects what is true food and takes instead what may gratify a disordered palate but is not food, he will not only be deprived of bodily strength but he will also suffer diseases, and eventually even death as a natural consequence of his unnatural mode of action.

220. *Q.* Can we count upon a still further punishment as a sanction for the violation of the natural law?

*A.* Yes. It is only reasonable to recognize a special punishment for contempt shown to the law-giver by the rebellious will.

221. *Q.* Is such punishment just?

*A.* Most just. Is a fine for contempt of court just, over and above the fine and imprisonment for the breaking of the law? No one denies its justice. Then, if so, all the more just is a sanction for contempt of God, who is at once Creator, Law-giver, and Supreme Judge of the universe.



## ARTICLE VIII. POSITIVE LAW.

Positive Law — Its Possibility — Divine and Human — How known — Ultimate Basis — Presupposes Natural Law — The Unjust Law — Ignorance in the Transgressor of Human Law.

222. *Q.* What is a positive law?

*A.* A positive law is one which prohibits something that is not, *in itself*, evil; or commands something that is not, *in itself considered*, a necessary means to a necessary end.

223. *Q.* Since the positive command or prohibition is not given so directly by reason of the nature of the thing commanded or prohibited, upon what is it directly based?

*A.* Upon the free will of the legislator.

224. *Q.* Is this a possibility?

*A.* Certainly. The Creator has a right to give such laws, not only immediately, himself; but also through men whom he may constitute superiors of other men in regard to matters that are intimately connected with the welfare of mankind.

225. *Q.* How many kinds of positive law are there?

*A.* Two kinds, divine positive law, and human positive law.

226. *Q.* How can divine positive law be known?

*A.* By divine revelation only.

227. *Q.* How can human positive law be known?

*A.* By promulgation or proclamation proceeding from the human law-giver.

228. *Q.* What is the ultimate basis of human positive law?

*A.* The ultimate basis of human positive law is this: that society amongst men is in the nature of things. But human society cannot exist without some direction from authority existing in it. This authority cannot guide it to its end without legislation for particular cases and circumstances.

229. *Q.* But is not all this provided for by the natural law?

*A.* Only in a general way. To give an illustration, we may say that we are bound by the natural law to support our lawful government. Now, though there may be a best way of doing this, this best way is not

made known, by reason, to every one, with the same clearness as is the general precept, "Do good and avoid evil." So, in the vast, complicated machinery of a city or a nation, for instance, if each individual were to undertake, with his very limited knowledge, to determine the best way, we should have almost as many methods as individuals, and not one in a thousand would be of any value. The confusion would be indescribable; and the conduct of the civil society would be an impossibility. It being necessary, therefore, to have something determined and uniform, this uniform method being once fixed upon, must, for the very existence of the society, be imposed as a positive law by the person or persons in whom the authority resides.

230. *Q.* What, therefore, does the positive law presuppose?

*A.* Positive law necessarily presupposes the natural law as a foundation upon which to rest.

231. *Q.* Can the divine positive law ever be in contradiction to the natural, essential law?

*A.* No; for this would be to put a contradiction in the wisdom and justice of the Creator of the order of nature.

232. *Q.* Can a human legislator or superior command whatever he pleases, and thus impose upon his subjects an obligation of doing whatever he chooses to order?

*A.* Not at all. A human legislator has no real authority beyond what he needs to fill the position he holds, as the guide of the society over which he presides. His authority is limited by the natural law to the purposes for which authority itself exists in society.

233. *Q.* When is a human positive law, that is, the command of a human superior, to be regarded as, in itself, unlawful?

A. (1) When it is opposed to the natural law.

(2) When it is opposed to the divine positive law.

(3) When it is contrary to the good of the community upon which it is imposed.

(4) When it prescribes what is impossible.

234. Q. Is it lawful to obey the command or law of one thus legislating unlawfully?

A. If the human so-called law be opposed to the natural law or to the divine positive law, it may not be obeyed.

235. Q. What is to be done if we find the law unjust for other reasons: for instance, if it be directed, not to the common good but to private good; or, if it be not equally distributed over the subjects; or, if the legislator exceed his power in certain matters?

A. If the law is *certainly* unjust for any of these reasons, it has no binding power *in itself*. It is to be remarked, however, that there are cases where the human law, having no binding power in itself, must, nevertheless, be obeyed for reasons springing from the natural law. For, the thing commanded being in itself an indifferent matter, that is, neither obligatory nor prohibited by reason of its very nature, the circumstances may be such that to avoid positive evil, as public scandal, great civil disturbance, or even bloodshed, etc., we may be bound by the natural law to obey. And, in general, whenever there is not moral certainty that the law is unjust, it must be obeyed, because the law has the presumption in its favor; and there may readily be hidden reasons which are not apt to be, and need not be, open to each individual subject.

236. Q. How does it happen that persons transgressing civil laws, in invincible ignorance as to the

existence of the law, are sometimes punished as though they were culpable?

*A.* The reason of this is, that, otherwise, the conduct of civil society would be impossible. The civil authority having taken all the means necessary to make the law known to the citizens, cannot take into account every subsequent plea of ignorance; since all transgressors might claim invincible ignorance, and there would be no possibility of enforcing the law. This is a matter well understood, and there are very few who do not acquaint themselves of the laws that concern them, in the society in which they live.



#### ARTICLE IX. A SUMMARY.

**Summary — Essential Differences between Natural and Positive Law — Natural Law enforced by the Civil Law.**

237. *Q.* Give a summary of what has been said about the natural law.

*A.* (1) God is its Author.

(2) Reason is the herald proclaiming the law in his name.

(3) Reason proclaims the law to the will, which is a blind faculty needing a rule to distinguish between good and evil, as well as a law with a sanction to serve it as a rein and a stimulus.

(4) God is the superior; the will is the immediate subject.

(5) Through the will the execution of the law passes to the other faculties which the will can command.

(6) Actions in themselves bad, a wise Creator will

prohibit; actions in themselves good, and, at the same time, necessary for the preservation of man's essential relations, the wise Creator of the order of nature will command.

238. *Q.* Which are the essential differences between the natural law and positive law?

*A.* The following:—

(1) The natural law regards what is good or bad in itself; positive law regards that which is in itself indifferent.

(2) Natural law must be imposed; positive law depends upon the free will of the superior. That is to say, natural law is necessary, positive law is contingent.

(3) Natural law comes from God as immediate superior; positive law may be imposed by a mediate superior commissioned to legislate.

(4) The whole natural law is for all men; a given positive law may be for a part of the human race.

(5) Natural law is unchangeable; positive law is revocable. All purely human laws are positive laws.

(6) Natural law may be known by the light of reason; positive law, as coming from the free will of the superior, must be made known by some special sign.

239. *Q.* Are not some human laws unchangeable, as, for instance, the civil laws which forbid theft and murder?

*A.* Such laws, though written in the civil code, are not human laws. They are parts of the natural law. They exist and oblige prior to the existence of any human law. The human law merely calls attention to them as especially necessary for the welfare of society, and declares its intention of punishing transgressors.

## CHAPTER V. MORAL CONSCIENCE.

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### ARTICLE I. MORAL CONSCIENCE.

**Moral Conscience — True and False Conscience — Culpability and False Conscience.**

240. *Q.* What is meant by moral conscience?

*A.* The name, moral conscience, is given to any judgment of the mind which declares the existence or absence of a moral obligation in a particular case. When we say, with conviction, "I am morally obliged to do this," "I am morally obliged to omit this," "I am morally free to do or omit this," such judgments are called acts of conscience.

241. *Q.* Whence comes our conviction of the truth of these judgments?

*A.* From the fact that they are conclusions which reason draws from known truths.

242. *Q.* Which are these known truths?

*A.* They are, always, a judgment announcing the general law, and a judgment announcing that a particular case comes under the law or does not come under the law. From these we draw our conclusion as to our own obligation in the particular case. A single example will suffice to make this clear. For instance, in the first judgment we declare the general law, "Theft is forbidden, is evil." The second judg-

ment pronounces, "The taking of this money to use as my own is theft." Then the third judgment, which we call conscience, declares as a conclusion drawn from the preceding, "I may not take this money to use as my own."

243. *Q.* Does the mind always go through this process in passing judgment on particular cases?

*A.* It does so, at least implicitly, but the process, through habit, becomes so rapid as not to be noticeable in ordinary matters.

244. *Q.* What is a true conscience?

*A.* A true conscience is a judgment uttering a true practical conclusion as drawn from two true premises which declare the law and its application.

245. *Q.* What is a false conscience?

*A.* A false conscience is one which draws a false practical conclusion by reason of some error regarding the general law or its application to the case in question. A true conscience judges right to be right and wrong to be wrong. A false conscience judges right to be wrong and wrong to be right.

246. *Q.* Can a person be held as culpable when acting under a false conscience?

*A.* That will depend altogether upon the culpability of the ignorance from which this conscience (erroneous practical judgment) proceeds.



## ARTICLE II. MORAL CERTAINTY AND DOUBT.

Moral Certainty — Enquiry — Invincible Ignorance — Doubt — Examination — The Unpromulgated Law — An Important Restriction — Example — Education of Conscience — “Feelings” are not Conscience.

247. *Q.* What then is required that we may safely, lawfully, follow this practical conclusion, which we call conscience?

*A.* It is necessary that we be morally certain of its truth.

248. *Q.* What is moral certainty?

*A.* Conviction that excludes a prudent doubt; to have it, the practical judgment must be such as would deserve the assent of a prudent man.

249. *Q.* How can we obtain this moral certainty?

*A.* By such enquiry into the existence of the law and the matter in question, as will be proportionate, in its diligence, to the gravity of the case.

250. *Q.* Does a person do wrong when acting upon a conscience invincibly and inculpably erroneous?

*A.* No; for, though what is willed in this case be really evil, it is not known as such, and hence is not willed as such. And, as there is no culpability in the ignorance, so is there no culpability in the will acting upon the erroneous judgment or conscience invincibly trusted in as correct.

251. *Q.* What is one to do when a doubt arises either as to the existence of a law, or as to a present case coming under a known law?

*A.* Any one so doubting must examine before drawing a practical conclusion upon which to act. He must en-

deavor to acquire moral certainty regarding the existence or non-existence of the law, and also regarding the case in question as to whether it is or is not included in the law.

252. *Q.* But suppose sufficient examination to have been previously made, or that it be made; what is one to do if the ignorance still remains?

*A.* A person in this difficulty may reason as follows: "When a general law or the comprehension of a particular case under a general law cannot be discovered after sufficient examination, such law cannot be regarded as sufficiently promulgated as to the general law itself or at least as to the comprehension of the present case. But a law that is not sufficiently promulgated has not yet its binding force. Therefore, there is no binding law in this case."

253. *Q.* But suppose that, after serious examination, we find, for each side, reasons which carry weight and cannot be disproved, and we find ourselves thus in the impossibility of arriving at a conclusion — what is to be done?

*A.* If these powerful reasons stand, some for the existence, the others for the non-existence of the general law itself, such law (should there be such) is undiscoverable, is not promulgated, has no binding force.

If the law itself be certain, but there are grave reasons for and against deciding a given act or omission to be comprehended within the scope of the law, then again may we say that the law has not been sufficiently promulgated with regard to the case in question. For instance, let us say that we are bound to do some positive acts of benevolence to our neighbor. There may be strong reasons for and against some one particular

act being comprehended in the law. The law is not promulgated with reference to that particular act. We may omit that act. The law, however, still remains. We must find other ways of fulfilling it. Or again, the law forbids and we are in the same kind of doubt as to whether some particular omission is included. We may act as if the law regarding that omission were not promulgated.

254. *Q.* IS THERE SOME RESTRICTION TO BE OBSERVED IN SO DEALING WITH A DOUBT EVEN THUS WELL GROUNDED?

*A.* YES; A VERY IMPORTANT AND SERIOUS RESTRICTION.

255. *Q.* WHAT IS THIS RESTRICTION?

*A.* THE FOLLOWING: Whenever there is an end which we are absolutely bound to attain, and there is a means by which we can surely attain that end, we may not reject this sure means in order to try one that is only probable, no matter how strong the probability may be. For this would be deliberately to risk the end to which we are absolutely bound and which it is in our power to secure.

256. *Q.* But suppose that in the same case, we have no absolutely sure means, but only possible or truly probable means, what is to be done?

*A.* Of course the law does not oblige beyond possibilities. But, in this case, it binds as far as the possibilities go, and the means that are known to be more secure will have to be taken. Only when the probabilities are equal will there here be liberty of choice.

257. *Q.* Can you give an illustration that will make this clear?

*A.* Yes. A very common, every-day example is found,

for instance, when a physician is summoned by one who is dangerously ill. The physician accepts the call. He is bound from that moment to aim at the cure of the sick person. Having understood the case, he sees that there is one method of treatment which will certainly effect a cure, whilst there are others which may be equally serviceable, but of which he is not certain. According to the principles laid down above, he is obliged to choose the sure method. If there is no sure method, he is bound to elect, among probable methods, the one that holds out greatest hope of success. All this, of course, is under the presumption that those interested are ready to follow his advice.

258. *Q.* Can conscience be educated?

*A.* Yes, conscience can be educated in the sense that the intellect can, by practice, acquire readiness in the application of primary principles to particular cases.

259. *Q.* Is the education of conscience important?

*A.* It is the most important education, because it relates immediately and directly to the final destiny of man. It is the one important, practical education.

260. *Q.* Will it not do to trust to our feelings in regard to right and wrong?

*A.* No. Feelings are not conscience. Conscience is reason judging according to principles. If the feelings constituted conscience, right and wrong would change with every varying mood, and what reason declares to be essentially evil might be declared good when it happened to suit one's momentary feelings. In this way there is no crime that could not be justified by saying that it was according to the person's feelings.

## CHAPTER VI. AIDS AND HINDRANCES TO OBSERVANCE OF MORAL ORDER.



### ARTICLE I. THE PASSIONS.

The Passions — Of the Sensitive Order — An Instrument of the Will  
— Not our Guide — Why called Bad — The Primary Passions.

261. *Q.* What aids have we for the more ready observance of the moral order?

*A.* The passions.

262. *Q.* But are not the passions evil? Are they not always spoken of as incentives to wrong-doing, in fact, as bad passions but never as good passions?

*A.* These questions show that there is a great misunderstanding regarding the true nature of a passion. A passion may, indeed, be misused just as one of our faculties may be misused; as sight, hearing, the powers of speech and movement may be employed for ill. The hand may be commanded by the will to do theft or murder. But the hand is not therefore evil. So, also, the passions are not evil, though they may be used for evil as for good.

263. *Q.* What then do we mean by a passion?

*A.* A passion is that emotion, feeling, exaltation, which manifests itself in our sensitive nature upon the apprehension of good or evil.

264. *Q.* Is passion then something of the purely sensitive order?

*A.* Passion is something of the purely sensitive order, and is found in the mere animal as well as in man. But in man a passion may be, as it should be, an aid or an instrument to the ready action of the will proper to man, the spiritual will.

265. *Q.* How can passion be an aid to the action of the spiritual will or be used by it as an instrument?

*A.* This will explain itself by an example. Take, for instance, the state of anger or the state of hope or of any passion in which any one may be. In so far as these belong purely to the will, they are the attitudes of the will toward good and evil as presented in certain phases by the intellect to the will. These phases of good or evil are, that they are present, absent, attainable, avoidable, etc. For each of these phases, as presented by the intellect, we may say there is an attitude of the will; and for each attitude of the will there is a possible corresponding exaltation, emotion in the sensitive nature, that is, a corresponding passion. Now, when the passion of hope or of anger is roused, as corresponding respectively to the attitude of the will towards good (presented as being attainable) or evil (as being unbearable), the position taken by the will is fortified, the continuance of the position or act of the will becomes easier, and the act itself is intensified, since the whole man, soul and body, is roused to the same effort.

266. *Q.* Why then is it said to be wrong to follow passion?

*A.* Because our guide is reason and not passion.

267. *Q.* Can the passions be awakened independently of the act of the will?

*A.* Yes; because being of the sensitive order they may, in us as in the mere animal, be awakened by the sensitive perception of sensible good or evil.

268. *Q.* Is it wrong to follow passion in this case?

*A.* It is always wrong to follow passion as a guide. It may be, however, that passion in this case shall happen to be directed to the real good of man. This, reason will decide. And then, though we may act according to the passion, still we will not be following passion but reason.

269. *Q.* How is it that the passions are commonly called bad?

*A.* This comes simply from the fact that passion, being something of the sensitive order, may indeed be roused, independently of and prior to the act of the free will. It may be thus roused at the mere perception of some partial and purely sensible good which the free will, acting under the guidance of the intellect, should reject as not being conducive to the good of the whole man taken as a unit. When passion is thus roused, it is easy to see that the will, besides having to reject the partial and apparent good apprehended, has also to make a special effort to overcome the tendency made active by the rousing of the passion. Thus it is that passions are called "bad," because it is wrong to follow them as the guide of human conduct, and because, when passion accompanies, the movement of the will towards evil is readily intensified. But we must remember, that with passion accompanying, there are the same conditions established for increase of intensity in the movements of the will towards good.

270. *Q.* How many passions are there?

*A.* It would not be easy to enumerate them all with any kind of precision. There are combinations, complexities of sensible emotion, which it is not always easy to analyze or to designate by a specific name, and



which respond to varying attitudes of the spiritual will towards good and evil apprehended in various phases, as attainable, as present, as difficult to reach or to avoid, etc.

271. *Q.* Can we nevertheless distinguish some primary or elementary passions?

*A.* Yes.

272. *Q.* Are there some that we can regard as fundamental, as leading to or forming an element in all the others?

*A.* Yes.

273. *Q.* Which are they?

*A.* Love and its contrary, hatred.

274. *Q.* What is love?

*A.* Love is the passion that arises on the mere contemplation of good.

275. *Q.* What is hatred?

*A.* Hatred is the passion that arises on the mere contemplation of evil.

276. *Q.* What passions directly follow love?

*A.* Desire and delight.

277. *Q.* What is desire?

*A.* Desire is the tendency or inclination to possess the good which has been apprehended as absent.

278. *Q.* What is delight or joy?

*A.* Delight is the actual pleasure consequent upon the possession of good.

279. *Q.* What passions directly follow hatred?

*A.* Abhorrence and sadness.

280. *Q.* What is abhorrence?

*A.* Abhorrence is the tendency, the inclination, to be separated from the evil that has been apprehended and regarded with hatred.



281. *Q.* What is sadness?

*A.* Sadness is the pain or suffering consequent upon the actual union with, possession of, the evil apprehended.

282. *Q.* Are there other passions readily discernible and easily analyzed as being immediately associated with the preceding?

*A.* Yes.

283. *Q.* Which are they?

*A.* Hope and despair; fear and daring (courage); anger.

284. *Q.* What is hope?

*A.* Hope is the passion which arises when a good desired is seen to be difficult yet possible to attain, or when an evil that is abhorred is seen to be difficult yet possible to avoid. It corresponds to the attitude which the will takes on, when the good or evil is thus presented by the intellect, with special prominence given to the possibility of attaining or avoiding—with special light thrown upon this possibility.

285. *Q.* What is despair?

*A.* If in the previous case the intellect is occupied chiefly with the *difficulties*, makes *them* prominent, puts *them* in a strong light, *neglects* the consideration of the possibilities, the will takes on a different attitude, and the corresponding passion is despair.

286. *Q.* What is daring or courage?

*A.* Courage is the passion that follows hope. It arises when we go out bravely to overcome the obstacles that stand in the way of our attaining the good or avoiding the evil.

287. *Q.* What is fear?

*A.* Fear is the opposite of courage or daring. It is

the shrinking at the view of the obstacles to be encountered in an attempt to reach the good or escape the evil.

288. *Q.* What is anger?

*A.* Anger is the rising up against present evil which is upon us, which has overtaken us.



## ARTICLE II. HABITS: VIRTUES; VICES.

Habits — An Act and a Habit — A Moral Habit — Virtue and Vice —  
The Cardinal Virtues — Prudence, Justice, Fortitude, Temperance.

289. *Q.* What other aids may we employ for the better observance of the moral order?

*A.* Habits.

290. *Q.* What is a habit?

*A.* We use the word, *habit*, to express the facility, readiness, promptness, ease, together with the constant inclination, which any given power or faculty may possess of performing a given act.

291. *Q.* Is habit, then, the same as power?

*A.* No. One may possess the power of doing a certain act, and yet not have the habit of doing it. In fact, a power may be so far from the condition called habit that it may not be in the condition to be used for even a single act. One may also possess a power and have never exercised it.

292. *Q.* Does a single act indicate the existence of a habit?

*A.* No.

293. *Q.* How is a habit formed?

*A.* By a sufficiently frequent repetition of the same act.

294. *Q.* What is a moral habit?

*A.* A moral habit is one that inclines to an act morally good or evil, and is, moreover, imputable for its formation as a habit to the person who possesses it.

295. *Q.* What name is given to a moral habit inclining one to the performance of an act that is morally good?

*A.* Such habit is called a virtue.

296. *Q.* What name is given to a moral habit inclining one to an act that is morally bad?

*A.* Such habit is called a vice.

297. *Q.* Are there certain fundamental, guiding virtues under which we can classify all the good habits that go to make up the perfect human life?

*A.* Yes.

298. *Q.* Which are they?

*A.* They are Prudence, Justice, Fortitude, and Temperance, commonly known as the Cardinal Virtues.

299. *Q.* Why are they called cardinal virtues?

*A.* They are so called from the Latin word *cardo*, a hinge, because human conduct, if pivoted upon them and upheld by them, will move upright as a door upon its hinges.

300. *Q.* What is justice?

*A.* Justice, as a cardinal virtue, is the acquired general tendency or ease of choosing good and rejecting evil. This general ease results from the formation and exercise of many habits of different particular virtues, as each particular habit results from the repetition of acts.

301. *Q.* But is there not an act of justice, thus implied in every act of virtue?

*A.* Yes. For, as justice is the general habit of doing good and avoiding evil, an act of justice is, necessarily,

implied in every act of virtue, because every act of virtue is a choice of good. So, also, in every particular virtue, which is the habit of a particular good act, there is a partial habit of justice. But that habit which rules the whole life, and which we call the cardinal virtue of justice, cannot be said to be possessed until many particular virtues have been acquired, so that it may be said that the will is directed generally to good.

302. *Q.* What is prudence?

*A.* Prudence, as a cardinal virtue, is the general habit of readily discerning the right and the good to be presented to the will. Every habit of particular virtue is accompanied by prudence in regard to the acts of that virtue. But the cardinal virtue of prudence covers the same ground as the cardinal virtue of justice. It is a general habit, implying the possession of many particular habits. In it is included the habit of caution in new circumstances and of investigation before action in doubtful cases. As justice is a habit of the will inclining it to the right and the good, so prudence is a habit to which the intellect is formed, under the obedience of the will, to seek out the right and the good.

303. *Q.* What is the cardinal virtue of temperance?

*A.* It is a habit, residing in the sensitive nature, whereby sense is rendered readily obedient to the will and kept within the bounds prescribed by reason as necessary to the co-ordination and subordination of the various faculties. Every restraint of passion within its due limits is an act of temperance. The cardinal virtue finds its special exercise in moderating the use of gross sensual pleasures.

304. *Q.* What is the cardinal virtue of fortitude?

*A.* As temperance is the virtue which holds the

senses in restraint, so fortitude is the habit of going forward and of not shrinking at the view of obstacles and difficulties that have to be met and overcome in the pursuit of good and the avoidance of evil.

305. *Q.* Are not the names, justice and temperance, often used to signify particular virtues?

*A.* Yes. Justice is often used in the limited sense of what is called commutative justice, which is the giving to every one his due. Temperance is very widely taken in but one of its applications; *i.e.* moderation in the use of alcoholic drink.

## CHAPTER VII. SOME ERRORS.



Sentimentalism — Sensism — Sensualism — Positivism — Utilitarianism.

306. *Q.* What errors are common regarding the fundamental ethics?

*A.* As was stated previously, there will always be errors regarding conduct where there are errors concerning the true nature, origin, destiny, and relations of man. The errors of to-day may be reduced to (1) Sentimentalism and Sensism, which err respecting the faculty with which we perceive morality; (2) Sensualism, Positivism, and Utilitarianism, which err in starting from a false definition of morality.

307. *Q.* What is sentimentalism?

*A.* Sentimentalism is the error of those who say that the perception of and the discrimination between good and evil is all a matter of instinct, of which we can render no rational account. Good, say the sentimentalists, is recognized by its producing a certain internal satisfaction in us, a certain unaccountable sympathy of which we become aware. It is clear that according to this system there could never be any standard of morality. Good and evil would change with every fickle mood. Mere inclination would be the only test of good and right, and could be appealed to as justification for any crime.

308. *Q.* What is sensism?

*A.* Sensism is the error of those who say that we have a special sensitive faculty to perceive good and evil; as the eye is intended to perceive color, and the ear, sound. That there is no special faculty for this purpose and that it is the intellect that judges of good and evil, as it does of anything else, has been shown. Moreover, it is absurd to say that moral good and evil can be perceived by a mere sense. Only intelligence can perceive moral evil as such. Only intelligence can perceive the meaning of the abstract law, the knowledge of which must precede the perception of the moral good and evil in the individual case.

309. *Q.* What is sensualism?

*A.* Sensualism is the error that puts moral good in what is pleasing to sense, and moral evil in what is painful to sense. It is broader in its error than what we called sensism. It does not assume a *special* sense for the perception of good and evil, but makes *any* sense capable in its own way. This is the only ethics of the materialistic philosophy. According to it, man cannot be considered reprehensible for any crime which he takes pleasure in committing.

310. *Q.* What is positivism as a system of morality?

*A.* The positivist defines good to be that which is commanded by law; and evil that which is forbidden by law. The mistake, here, lies in making law the test of morality in an act; whereas, the morality of the act is the test of the justice of the law.

311. *Q.* What is utilitarianism?

*A.* Utilitarianism begins by defining the morally good to be that which is useful. Upon a limited and, hence, false application of this definition, the utilitarians try to

build up a system of morality. Their first care is to exclude the consideration of a Creator and of a future life. They will not directly deny either, but simply reject the consideration, saying flippantly that what is good for time is good for eternity. As well might one discuss a triangle, assuming that it has but one angle.

However, even when limiting the consideration to this life, the utilitarians have never been able to agree upon what was to be regarded as useful. Some have defined the useful to be whatsoever can give pleasure in this life. This at once drags the theory down to the lowest depths of the grossest sensualism. Others, fearing to go so far, have defined good as that which is useful to society at large. Still, even here, with temporal benefit their standard, they make no distinction between the intrinsic morality of any two acts. They leave the decision of good and bad to the alternate triumphs of political disturbers. Besides, there is another dangerous false principle involved in this kind of utilitarianism: namely, that the individual exists simply for the temporal welfare of that very vague thing called the state, or for as vague a thing, the general good of the greater number. The absurdity of the principle is manifest if we but remember that the welfare of the state means nothing but the welfare of the individuals who compose it; that the state is for the members and not the members for the state. The principle is a most dangerous one. It lies as the foundation stone of the two extremes of despotism and communistic socialism. It lays wide open the avenue to every species of tyranny which those who obtain power may choose to exercise.



## CHAPTER VIII. DUTY AND RIGHT.

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### Duty and Right — Moral Obligation and Moral Power — Free Will under Law — Our Essential Relations.

312. *Remark.* We have, indeed, brought out in the preceding pages all the fundamental principles of right conduct. But between these fundamental principles and the concrete affairs of life there is one point which has to be considered if we wish to make the application of the principles correctly. We may consider it here without departing from the abstract character we have imposed upon our book. We refer to the question of right and duty. The solution of every question of ethical practice is reduced eventually to the task of determining the limits of rights and duties in the concrete circumstances of life. In speaking of rights and duties, we use the word "right" in a sense different from that which we gave to it when speaking of right and wrong. The term "right," as opposed to wrong, was employed to characterize the act of the will when choosing the "good." A "right," as distinguished from a duty, signifies the moral freedom of the will to choose that which is not evil. In this sense we say "to have a right." In the other sense we say "to do right." Of course, we cannot have a right to do what is wrong. Our rights are necessarily limited by the circle of what is right. Hence,

313. *Q.* What further knowledge is necessary before we can begin to make the application of the fundamental ethics to human conduct in the conditions of actual life?

*A.* It is necessary to have a very correct and definite knowledge of two things.

314. *Q.* What are these two things?

*A.* Duty and right.

315. *Q.* What is duty?

*A.* Duty is the moral obligation which law imposes upon the will of man.

316. *Q.* What is right?

*A.* Right is the liberty of action, the moral power left to the will to do or omit an act when there is no law to the contrary.

NOTE. — Though long treatises are required to exhaust the subject of duty and right considered in the abstract and in their various applications to the circumstances of practical human life, still everything that can be said must be reducible to what has just been stated; namely, where there is a moral obligation there is a duty; where there is no moral obligation there is a right.

317. *Q.* Why do we say *moral* power, *moral* obligation?

*A.* Because duty and right have no reference to one's being physically bound or free. Duty is what we *may not* violate though we *can*. But by a right we *may* do something though it should happen that we *can not*.

318. *Q.* Is this in keeping with what was said about acting according to the nature of things?

*A.* Perfectly so. For it is strictly according to the nature of things for even a free will to be limited morally in its exercise by a law proceeding from one who has authority over that free will in the matter in ques-

tion. And again, it is strictly according to the nature of things that a will which is by its very nature free, should retain its liberty of choice in all matters where there is no law from its superior restricting its liberty of action. The limitation implies duty; the liberty of choice, right.

319. *Q.* What important conclusion follows from this?

*A.* It follows that where one has a right, others have a duty. For, if the superior having authority wishes to leave to an individual will the free exercise of its liberty, this wish of the superior becoming known to others is a law to them, imposing upon them a duty of not interfering with the free exercise of that liberty.

320. *Q.* What, then, is the best way to prepare ourselves for the true ethical life, for correct conduct?

*A.* The proper way, as well as the most expeditious, is to study our duties, to seek for the laws by which we are bound. Outside of these we are free, we have rights.

321. *Q.* How may we know these duties?

*A.* By studying our essential relations.

322. *Q.* How may these relations be classified?

*A.* As relations towards God, relations towards our fellow-men, and relations towards ourselves. We have a relation of dependence upon God; of equality to our fellow-men; of identity (stricter than equality) with ourselves. God wishes us to make our free acts in keeping with our essential relations. His will is law; law imposes obligation; this obligation is duty.

A comprehensive development of the consequences of these three relations would give us a detailed rule of right conduct.

## CHAPTER IX. RIGHTS.

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### ARTICLE I. BASIS AND NATURE OF RIGHTS.

**Law the Principle of Right and Duty — Enforcing of Rights — Impeded Right — Inviolable Moral Power — Subject, Term, Matter, and Title of Right.**

323. *An Explanation.* All right is based ultimately on the natural law. For the natural law is the law of our nature. By our very nature we are free beings, with the capacity of willing a thing or of not willing it, or of willing the opposite. Now, if the choice is not pointed out to us by a superior will which has the rightful authority to point out to us a choice and impose upon us the duty of making that choice, we remain free or unbound. And we remain free *by the law of nature*, just precisely in the same way as in the other case we are bound by the law of nature. That is to say, rights as well as duties proceed from the law of nature; and they proceed thus simultaneously, by the same indivisible law, the will of the Creator willing that man should freely act up to his dignity as man, freely doing the good and avoiding the evil. Now, where of two acts, neither one is demanded, whether by man's own essential perfection, or by the relations in which he stands towards the rest of the universe and towards his Creator, man is herein proclaimed free by the very law of nature,

by the will of the Creator. In other words, by the law of nature he is endowed with rights. It is the will of the Creator that he should freely act according to his nature, preserving his essential relations. But in the case proposed there are no essential relations demanding for his perfection and for the harmony of the universe, the free action of his will in one way or in the other. Hence he is left with the free disposal of his will. He is so left by the very law of nature. This privilege of free disposal we call a "right."

Right and duty, therefore, are created by law.

324. *Q.* Since law, in conferring a right, confers the free power of free action, does it also confer the right or moral power of forcing others to respect that right, and of taking the means necessary to hinder others from impeding the exercise of that right?

*A.* Certainly. For otherwise the right would be illusory. It would be a freedom impeded by the very law which confers it. For, if the law allows to others the freedom to impede my right, it cannot simultaneously confer upon me the freedom to act.

325. *Q.* Does the law conferring upon me the right, allow me, then, to take any means, whatsoever, to pursue my right?

*A.* No. For no law can confer upon me the right to take means which are in themselves evil.

326. *Q.* Is not my right, then, destroyed?

*A.* No. The right remains morally inviolable, though it may be physically impeded or violated.

327. *Q.* How can this be?

*A.* This is because right, as we have so often said, is a moral power and confers the right to physical means only in so far as these means may not be evil. In the

same manner, another person may possess the physical means of violating my right, but this does not confer upon him the moral power or right to do so.

328. *Q.* How may we, now, briefly define "right"?

*A.* Right is an inviolable moral power.

329. *Q.* What four things must we consider in a right?

*A.* The subject, the term, the matter, and the title of the right.

The subject of the right is the person who possesses the inviolable moral power.

The term includes all those who are morally bound, that is, whose will is bound by law to respect that right, and leave it inviolate.

The matter is the peculiar act which the law confers the power of performing.

The title is the fact determining the particular subject of a right.

330. *Q.* Who can be the subject of a right?

*A.* Only an intelligent free being.

331. *Q.* Can demented persons have rights?

*A.* Yes. They possess rights radically, though by accident they happen to be impeded in the use of them. Hence others have the moral obligation of respecting their rights.



## ARTICLE II. PARTITION OF RIGHTS.

### Innate and Acquired Rights — Alienable and Inalienable Rights.

332. *Q.* How many kinds of rights are there?

*A.* All rights may be divided into the two general classes of innate and acquired rights.

333. *Q.* What are innate rights?

*A.* Innate rights are those whose title is human nature itself. Hence, they are the same in all men. Such are the rights of tending to one's last end, of preserving one's life, of self-defence, of acquiring possessions. Innate rights are also called natural or primitive or absolute.

334. *Q.* What are acquired rights?

*A.* Acquired rights are those which the law confers by reason of an acquired title; that is, by reason of some fact, circumstance, adjunct, state, condition, etc., in which an individual may be found, and which fact, condition, etc., is not common to human nature as such and wherever found. Such, for instance, are the rights of possessing something in particular, of demanding protection from a particular government, etc. These rights are also called positive or secondary or hypothetical.

335. *Q.* How, again, may all rights be divided?

*A.* All rights may also be divided into inalienable and alienable rights.

336. *Q.* What are inalienable rights?

*A.* Inalienable rights are those of which a person may not divest himself and of which he may not forego the exercise. They are obligatory. We are not free in regard to the exercise of them. They are, in fact, strictly speaking, duties.

337. *Q.* How, then, do they come to be called rights?

*A.* In this way. Whenever any one has a duty to perform, the same law that imposes this duty upon him imposes, at the same time, upon all others, the duty of leaving him free in the performance of that duty, of not hindering him in the use of the means necessary

for the performance of that duty. Thus, though he himself is not free before the law to use or not to use such means, yet the law binds others to leave him unhindered in the use of those means. There is a duty imposed upon them in his regard, and in him resides a corresponding right. Thus the duty imposed upon all men of tending to their last end implies the duty of using the means necessary to reach that end. Hence each man's duty of using those means is also a right which others are bound not to interfere with. This, his right, is inalienable, because he may not divest himself of it; he may not willingly allow himself to be interfered with in the use of the means.

338. *Q.* What are alienable rights?

*A.* Alienable rights are those whose exercise is not obligatory, or of which one may divest himself, or which he may transfer to another. If, for instance, you possess a gold piece which you are not obliged to use to support your own life, or to maintain persons depending upon you or to pay a debt, you are absolutely free to use that gold piece for whatsoever purpose that is not evil. Your right to the possession of the gold piece is alienable. You may throw the gold piece into the sea. You may give it to your friend or to a stranger, and this, with such perfect transfer, that all your rights will pass over to him. The piece may be taken from you, and you will not be obliged to do so much as to reach out your hand to recover it.



## CHAPTER X. DUTIES.

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Duty—Its Source—Natural and Positive Duties—Negative and Affirmative Duties—Motive of Duty—Perfect and Imperfect Duties—Term of a Duty.

339. *Q.* What is duty?

*A.* Duty is the moral obligation of doing or omitting anything.

340. *Q.* What, again, is the source of duty?

*A.* Law.

341. *Q.* How may we classify duties?

*A.* In the same way that we classify laws. Law is natural and positive. Hence duties are natural and positive. A duty arising from the natural law is called a natural duty. A duty arising from a positive law is called a positive duty. From the natural law, we have, for instance, the natural duties of worshipping God and of not injuring another's reputation. From the divine positive law (old law), for example, arose the duty of the particular observances of the Jewish Sabbath. An illustration of obligation coming from human positive law is found in the duty of giving testimony, when called upon, in courts of justice.

342. *Q.* What other classification of duties have we from the classification of laws?

*A.* As laws are either negative or affirmative, prohibit

or command, so the duties arising are, respectively, negative or affirmative.

Negative duties are always wider than affirmative duties which proceed from a law of the same order. That is, they cover a greater extent of time and affect a greater number of persons. Thus, among duties of the natural order, *i.e.* proceeding from the natural law, the negative duty, not to commit murder, binds all men and at all times. On the other hand, in the same natural law, the affirmative duty of aiding the poverty-stricken cannot bind at every moment, nor does it bind every human being with regard to every other human being.

NOTE.—What we have called *affirmative* law and *affirmative* duty, we sometimes see termed *positive* law and *positive* duty. Of course, it is very consistent to use the term *positive*, as opposed to the term *negative*. But when we have once used the term *positive* to express the law which comes from the free will of the legislator, as distinguished from the natural law, it can only be confusing to employ the same expression *positive law*, again, in contradistinction to *negative law*. For this reason, we have used the term *affirmative* in contradistinction to the term *negative*.

343. Q. What is the motive of a duty?

A. The motive of a duty corresponds to the title to a right. Law is the source. The title to a right is the reason — why of the law conferring the right; and the motive of the duty is the reason — why of the law imposing the duty. We might use the words *title* and *motive*, indiscriminately, or adopt either one exclusively, to express the reason — why of the particular effect of the law in both cases. But we employ the two words for the sake of clearness, just as we employ the words, *right* and *duty*, to make another convenient distinction

in the resultant of law. If we regard the natural law, our rational nature considered in the abstract or in some concrete circumstance is the title to the rights conferred upon us by the natural law; and the same rational nature is the motive of duty imposed upon us by the same natural law.

344. *Q.* What is meant by perfect and imperfect duties?

*A.* A perfect duty is one whose matter, subject, and term are so clearly defined that the term, the person to whom the duty is due, has a clear title whereon to proceed against the subject of the duty to force him to perform it. It is also called a juridical duty and corresponds to the perfect or juridical right. An imperfect duty is one whose matter, subject, or term is not thus clearly defined. It corresponds to the imperfect right, which is called a claim. We will understand this from an example. A man who is starving has a right to *some* food that is in the city where he is starving; for, without it he will die, and he has the right to live. The rich man, therefore, who may be appealed to for a loaf from his superabundance, is under the obligation of giving that loaf to the starving man. But if the rich man refuses, the starving man cannot bring him before the authorities of the city to force him to give the bread. The rich man may say that the obligation lies equally upon his next-door neighbor, who has likewise a superabundance. The starving man may indeed assert his right by abstracting from superabundance, wherever he may find it; but he has no recourse by city authority against any particular individual. His right is a *purely* moral right. It is a claim upon the rich man's will, a claim upon his charity, generosity, human-

ity. The rich man's duty is called a purely moral duty ; it is also called an imperfect duty ; but this expression is very ill chosen, for he has a very clear, serious duty that is very plain to his conscience, and he commits a great crime in refusing the bread.

On the other hand, if a man borrows a sum of money on a "promise to pay" at a certain time, and when that time arrives, refuses to pay, the creditor has the right to proceed against him, individually, to recover that particular sum of money. The duty of the debtor is called a perfect duty. It is also called a juridical duty ; and the right of the creditor, a juridical right ; because the tribunal of justice can be appealed to in the case.

The violation of an imperfect duty constitutes what is styled an *offence* against the person who has the claim. The violation of a perfect duty is not only an offence, but also an *injury*. These are the terms employed in this matter. Yet, who does not see how very unsatisfactory they are ? For what injury in money would not be more tolerable to the starving man than the offence of being refused the needed loaf ? What perfect right in money would he not forego, to have his claim or imperfect right honored ? Nay, the imperfect right, in the case proposed, he is even bound to secure by taking from abundance where he may find it ; whereas, the perfect right to the sum of money which he has loaned is alienable, and he need not pursue it.

345. *Q.* What is meant by the term of a duty ?

*A.* The term of a duty is the person towards whom one is bound. It is the person upon whom law confers a right by reason of a title, which title is identical with the motive on account of which the same law imposes the duty on the subject of the duty. The motive and title are the

same, as we have said, though looked at from different directions. This term may be God; it may be my fellow-man; it may be myself. I owe obedience to God because I am created and he is Creator. God has a right to my obedience because he is Creator and I am created. I have duties towards my fellow-man, and he has rights to my performance of them by reason, first, of the general equality of human nature; and, secondly, by reason of the particular relations that may have arisen between us of family, country, business, etc. I have duties towards myself by reason of the identity of self with self. I have inalienable rights by reason of my individual nature; and by reason of that same individual nature I have a duty to respect those rights; I may not abdicate those rights.

It is to be noted that, in the strict sense of the word, we cannot be said to have rights in respect to God. This would destroy the essential inferiority, with respect to God, which pervades our whole being. Even in regard to the attainment to our last end, God owes it not to us, but to himself, not to hinder us in the prosecution of the very end for which he himself has created us.

## CHAPTER XI. COLLISION OF RIGHTS AND DUTIES.



### ARTICLE I. COLLISION.

346. *Q.* What is meant by collision of rights?

*A.* There is said to be collision of rights when one person possessing a right cannot exercise it without violating a right possessed by another person.

347. *Q.* When is there collision of duties?

*A.* There is said to be collision of duties when the performance of one duty would necessitate the violation of another.

348. *Q.* When is there collision of laws?

*A.* There is said to be collision of laws when two laws simultaneously impose upon the same person contradictory duties, or endow different persons with rights that mutually exclude one another.

349. *Q.* Can there be such collision of laws, rights, or duties?

*A.* Practically, there cannot be a real collision. But the term *collision* is useful to express a condition of things that very often arises, a state of doubt which requires investigation to discover the truth. Whenever, in a given circumstance, one of the colliding laws, duties, or rights is found to be real, the other must necessarily be only apparent. You will see this in the following : —

Take the case of collision of two rights conferred by the natural law, your right and the right of another person. Upon investigation, you find your right to be certain. Your right is declared by the natural law, by the will of the Creator. Now, you cannot be bound by the same law of nature simultaneously not to do that which it declares you free to do. But if another possessed, simultaneously, by the natural law, a right which impeded your freedom, which really collided with your right, you would, at the same time and by the same law, be both bound and free. For the right of the other being declared by law, the same law declares you bound not to impede such right. Thus you would be both bound and free in the same respect and by the same law. The impossibility of real collision is evident. Hence, in the case of conflict between two rights or two duties under the natural law, if one of the rights or duties is found to be real, the other certainly does not exist.

Let us take a case where there is a conflict between a right which seems to be conferred by the natural law and a right which seems to be conferred by some positive law. It is clear that if the natural right be found to be certain, the positive law in question must be only supposed or apparent or misunderstood; or, if none of these, then certainly unjust, and, hence, null and void. If it be positive divine law, it certainly must be misinterpreted in the present application. For the positive divine law cannot come into conflict with the natural law, which is also divine. God is supreme intelligence; and it is not the part of intelligence to demand the simultaneous existence of two impossible things. If the positive law which seems to conflict with the certain

natural law be a human positive law (all human laws are positive), then either it has been misinterpreted in its application; or, if it be really intended to conflict with the natural law, it is unjust, and is null and void, because no human statute can come in the way of the natural law, which is divine.



## ARTICLE II. SUMMARY OF CASES.

350. *Q.* How may we summarize the possible cases of collision of rights?

*A.* All the more difficult cases may be found exemplified in the following:—

If the rights be equal, that is, conferred by laws of the same order, then the right which is first carried into execution holds, and the other falls away. A good illustration of this will be found in the opening up of new territory, such as Oklahoma, to the citizens of the United States. The government confers equal rights to the territory upon all. But, so soon as one has asserted his right by putting down his stake, the rights of the others fall away. We will have the same in the right conferred by the natural law upon two men, starving on a desert island, to a loaf of bread washed ashore by the waves. Whilst the loaf is on the sand the right of each is equal. But when one has picked up the loaf the other has no longer any right to it. The first one has acquired the concrete right of *primi occupantis*, as it is called; that is, the right of the first occupier.

But let us take the case where the rights are, as above, of the same order, but where the concrete exercise of the right is simultaneous on the part of both



individuals. Suppose that they had grasped the loaf simultaneously. Or, as the loaf might break, let us substitute for it something that could not be divided. Take the case of two men in the open sea, who are swimming for a plank. They lay their hands upon the plank at the same moment. The plank is sufficient to keep one man afloat, but it will not support two men. As they cling to the plank, it goes down with both of them. They release their hold. They come to the surface, and so does the plank. They grasp it once more simultaneously. Who has the right to it? The case is a very difficult one, and any solution of it will, at the first view, seem cruel. Are they both to leave it alone and drown? Or are they both to cling to it and drown? We have not supposed that either one is bound by any outside reason to yield the plank to the other. Each retains his right. Hence each one may defend his right. The plank will go to the stronger. This may seem hard, as a decision, in the abstract. But each one must allow to the other, in the circumstances, the right which he would evidently and justly claim for himself. This is not the same as saying that might is right. It is merely allowing the exercise of might for the assertion of right. But is there not here a real collision of rights, a thing which we have pronounced impossible in the concrete? We answer that there is not. The final circumstance necessary to give either one an inviolable concrete right to the plank is the possession of the plank. Whilst they are struggling, each one has a right to struggle. But when one has secured the plank it is his by the right of first occupier.

What if the rights are unequal? When the rights are not equal, the decision is to be given in favor of the

better right. The same is to be said of duty and law. We shall consider some principles for the precedence of rights in the next article. Here we wish to prepare for their more easy comprehension by examples. Therefore, —

There is a natural law, which is divine, by which we are bound to help our neighbor when he is in extreme need and requires our personal help. We will suppose that he has been shipwrecked and is on a rock in the sea in sight of land. His companion has gained the shore and says that the man on the rock will die by night if he does not get relief. It is nine o'clock on a Sunday morning. In the hamlet by the shore there is no boat fit to put to sea. Some one in the listening crowd suggests that in about five hours he could put one of the boats in condition to reach the rock and return. At once, a long-faced man near by is ready with the precept, "Thou shalt not labor on the Lord's day." Here is a precept conflicting with the precept of charity mentioned above. What is to be done? The law of abstention from labor is a positive law. The duty of abstention arises neither from the nature of labor nor from the nature of any particular day. The duty of charity in the present case is a duty imposed by the natural law, and it is in regard to what man holds as his highest temporal possession, his life. The duty is imperative at this very moment. Now, the positive law of rest from labor on a given day, regard it as you will, whether as a human (ecclesiastical) or as a divine law, could not, in the mind of the legislator, have been intended to come in conflict with the universal and essential duty of charity to our neighbor in his extreme need. The law of charity is irrevocable. The law of

rest from labor can be changed according to the will of the legislator from whom it originally proceeds. The positive law of rest from labor does not embrace the case proposed. The right of the sufferer to assistance remains. The legislator has not wished that the command of rest should extend to a case where it would conflict with the grave and permanent right to assistance conferred by the natural law upon the sufferer.

Here is another example. By the natural law every man has a right to his justly acquired possessions. By the same natural law every man has a right to preserve his own life. Now, a certain individual happens to be pursued by enemies who are bent on taking his life. He sees a horse standing in the road. The owner is in a field, thirty feet away. The man who is pursued asks for the use of the horse. The owner objects, saying that he is going on a visit. The fugitive leaps on the horse and escapes. What is the justice of the case? The matter of the fugitive's right is the saving of a human life. The matter of the owner's right is the making of a visit. The use of a certain piece of property, the horse, is necessary for the execution of both rights. Which right carries with it the right to the use of the horse? The right of the fugitive. For, though the owner's right, if there were no fugitive, would be the right to the use of his own property, the right to superfluous property is not conferred by the natural law upon any man to the extent that another may be thereby deprived of what is necessary for life. Hence the natural law did not confer upon the owner the right to the use of the horse at that moment and under those circumstances.

## ARTICLE III. SOME PRINCIPLES.

## Principles — Suspension of Law — Natural Law the Basis — Degrees of Difficulty.

351. *Q.* What general principles have we, then, to determine the real right in case of an apparent collision?

*A.* We must study the source of the rights, their matter, title, subject, and term. It is out of these that we are to determine which right, law, or duty is the one that does not extend to the case in question.

If we regard the source of right and duty, which is law, we may lay it down, in general, that a right or duty which can be shown to be upheld in given circumstances by the natural law, takes precedence of any other right or duty not of the natural law; that is, of any right or duty coming from positive law whether human or divine.

In the case of a collision of rights or duties proceeding from the same source, the negative takes precedence of the affirmative. Thus, in the natural law we have the negative precept which prohibits murder, and the affirmative precept which commands obedience to parents. Should a father and mother, therefore, order their child to commit murder, such order is not authorized by the law commanding obedience; for the order is in direct opposition to the natural law which forbids murder absolutely, at all times and under all circumstances. The affirmative precept which, after all, by the nature of things, can be exercised only at times, must necessarily be interpreted as not calling for exercise in such a way or at such a time as would bring

about a violation of the negative law which binds the human race, all men, at all times.

In the case of a collision of rights coming from the matter, the more important matter takes precedence. The question of the use of the horse, given above, supplies us with an example. The opposition is between the use of the horse as the essential means to a visit, and the use of the horse as the essential means for the preservation of a human life. The matter of the first right is a mere trifle in comparison to the matter of the second. By the very law of nature the first right does not exist for the moment. We cannot conceive of the law of nature conferring upon any man the use or holding of any of the goods of earth which are absolutely necessary for the existence of another man, except in the event of the use or holding of the thing being necessary for the existence of the actual possessor.

If we consider the title to the right, we have the innate right and the acquired right. An innate right may be inalienable or alienable. If it be inalienable, it takes precedence of any acquired right. If an innate right which is alienable comes into collision with another's acquired right, we must take into consideration the circumstances of the case, such for instance, as give occasion to a multitude of our civil laws. Any man has a right to build a large chimney on his own property; and even to build a large fire under the chimney. But his neighbors may declare that his chimney is an intolerable nuisance to them, and they may so report it to the city authorities. The city authorities may make a law about chimneys, and order him to abate the nuisance in some way or other. He may argue that by the law of nature he has a right to build a chimney and also to

build a fire under it. The city authorities will tell him that this is an alienable right. They will tell him that every man who becomes a citizen acquires a right to protection from nuisances, and that he also agrees to forego the exercise of any alienable right which would be an intolerable nuisance to his fellow-citizens. Hence the right to build such chimneys and to build such fires under them does not extend to that locality and must not be exercised in it.

We must consider the subject of the right. We have said that the subject of a right is a person. A person may be a physical person, that is to say, one individual human being ; or a moral person, that is to say, a family, a city, a province, a whole nation. What is to be done when there is a conflict between the rights of an individual and those of a moral person ? The inalienable rights of the individual stand before any rights of any moral person, of any community, be it family, city, or nation. The individual is first in the order of things. The family is for the individual. The nation is for the family and the individual. Again, in the family, itself, between the whole and the individual members and between the separate members there arise from the very nature and constitution of the family mutual, reciprocal, and respective rights and duties. Some of these are inalienable and may not be relegated, to be exercised at will, to any other person, whether individual or moral, to another family, to the city or the nation. Neither can any other family nor can the city or the nation usurp the rights or exact the duties that lie essentially in the family and between its members. And we may remark that whenever a body of national legislators tries to glorify the national power by usurping the inviolable rights of the

family and of the individual, the ultimate decadence of the nation is certain if the process of usurpation be persevered in. For, in the order of things, the strength of the nation lies in the strength of its individuals and of its families; and the strength of the individuals and of the families as factors of national progress lies in the free exercise of the rights that come within their scope. Of course, there are alienable rights which the family must forego when it elects to live within the limits of the city or the state, as we saw in the case of the man with the chimney. But civil legislators must be very prudent not to interfere with those family rights which hold prior to and in absolute independence of any purely civil law.

Finally, with regard to the term of right or duty we have to say the same thing that we have just said about the subject. The term of my right is the person or persons who are bound to respect my right. The term of a duty of mine is the person or persons who have a right to exact of me the performance of that duty. Term is simply the correlative of subject, as duty is the correlative of right. The subject of a right is the term of the corresponding duty. The subject of a duty is the term of a corresponding right. Hence, in collision, where precedence was given to the subject of a right, obligation will rest upon the term of the same right; that is, upon the subject of the corresponding duty.

352. *Q.* What is meant by suspension of law?

*A.* The expression, "suspension of law," is a convenience of speech employed to represent briefly what takes place in a collision of rights and duties. As we have seen, whenever there is collision, one of the laws, rights, and duties will be found, upon investigation, not to extend to the case in question. It would extend to



the case were the case other than it is. But it does not embrace, nor was it intended to embrace, the actual situation. For brevity and convenience the law is said to be suspended.

A father is obliged by the natural law to provide necessary food for his young children. But suppose that for two or three days he can obtain no food that is not poisoned. The law is said to be suspended. The general law of providing food still exists, but as a law it is not intended to embrace a case where the fulfilling of the letter of the law would defeat the very aim and purpose of the law. The purpose of the law is the preservation of the lives of the children. This end is to be attained under the present circumstances by depriving them of food.

353. *Q.* Is every right and duty ultimately reducible to the natural law?

*A.* Yes; every right and duty must be ultimately reducible to the natural law, in the sense of such right or duty being the will of the Creator prohibiting, commanding, counselling, or permitting. For if it were against the will of the Creator, it could not be a real right or duty.

The complicated circumstances of human life sometimes make it difficult to trace back to the natural law certain rights and duties, through the multiplying relations of men during long centuries. It is this that has caused, for instance, so many disputes about the original title to the right of property in land.

354. *Q.* Does difficulty in the execution sometimes exempt from the fulfilment of duty? That is to say, do all laws bind under whatever degree of difficulty we may experience in the observance of them? Or, if they do



not so bind, how can we determine the degree of difficulty in the execution to which the lawgiver may be reasonably judged not to extend the obligation imposed by the law?

A. This is a matter which requires a great deal of prudence; for there is question of interpreting the mind of the legislator in many circumstances when the legislator himself cannot be appealed to.

Without doubt, no law can embrace an impossible case. Law comes from intelligence; and intelligence cannot command an impossibility.

On the other hand, the fulfilment of duty imposed by law is always attended with some difficulty, with some exertion. Hence the mere fact of some difficulty attending the performance of what is prescribed does not at once and universally put it outside the scope of the law.

But between impossibility and ordinary exertion, ordinary difficulty attending any exertion, there are many grades of difficulty.

Our common prudence will tell us that a slight headache which might excuse a man from keeping a very insignificant engagement will not excuse him from going to the top of his house to take down his little boy, who, if left there, will very probably roll off into the street.

The constant exercise of prudence in particular cases, and the practice of studious inquiry when there is a doubt, are the best means of developing a habit of correct judgment in regard to the degree of difficulty in execution intended by the mind of the legislator.

It is to be noted, however, that the negative precepts of the natural law bind all men at all times and under all circumstances. There is no degree of difficulty in abstention which will authorize any one to put an act forbidden by the natural law.

## CHAPTER XII. VINDICATION OF RIGHTS.



Vindication—Perfect Rights—Repelling the Aggressor—The Use of Force—The Rule of Defence—Reparation of an Injury—The Use of Force—Appeal to Authority.

355. *Q.* What is meant by the expression, “vindication of a right”?

*A.* It stands both for the protection of a right against an aggressor and for the exacting of reparation from one who has violated a right.

356. *Q.* Which rights are accompanied by the right of vindication?

*A.* Those rights which are called perfect; that is, those whose violation constitutes an injury in the strict sense.

357. *Q.* How may these rights be classified?

*A.* They may be classified as right to property, right to reputation, and right to life and bodily safety.

Right belongs to a person. A person is physical or moral; that is, an individual or a society. We shall speak of the individual only. The question of the individual being once established, we can readily infer the right of a society of individuals, of a family, a city, a state. To proceed gradually, we ask first—

358. *Q.* Is it at all lawful to repel an unjust aggressor?

*A.* Yes. We have for this the unanimous consent

of all mankind and of all civil legislators. Cicero in his defence of Milo says upon the subject: "This is not a written law, but a natural law; we do not learn it, for we are born with it; we are not taught it, for we are endowed with the knowledge of it. . . . Nature has proclaimed it. . . ."

Moreover, nature ordains society amongst men. But society is impossible without the means of securing peace. Hence, nature grants the right to the means necessary to secure peace. Now, one necessary means is the right to repel an unjust aggressor. For if wicked men might not be frustrated in their attempts at crime, all peace would be at an end; society could not exist.

359. *Q.* In repelling an unjust aggressor, is it lawful to use necessary force which may result in damage to him?

*A.* Yes. We have for this, again, the universal consent of all mankind and of all civil legislators.

Besides, it is seldom possible to repel an aggressor without inflicting some damage upon him. Hence, if the natural law did not allow us to run the risk of this consequence, our right of repelling an aggressor would be illusory. It would be no right at all.

Again, the natural law is just. Now, when there is an attack, either the aggressor or the one attacked must suffer; and we cannot suppose the natural law to be on the side of the aggressor, and against the peaceful defender.

360. *Q.* What must be observed in the defence?

*A.* He who defends himself must have a just intention; that is, his intention must be simply to defend his right. He must not inflict damage through vengeance, but merely as a necessary means of defence. If, for

instance, to defend his property, a blow will suffice, it will not be lawful for him to mutilate.

There must, also, be a proportion between the injury repulsed and the damage done in repulsing it. To defend a dollar or recover possession of it, killing or cutting, as being out of all proportion with the injury, would, certainly, be unlawful.

361. *Q.* When the injury has been completed, when we have been maimed, or defamed, or robbed, have we a right to demand complete reparation for the injury?

*A.* Certainly. The violation of a right does not destroy the right. Because a man steals your watch it does not cease to be yours.

362. *Q.* But may physical force be employed, if necessary, to secure this reparation, to recover the exercise of the right?

*A.* Yes. For, as the right has not been lost, it is perfectly lawful to use the means necessary to secure its exercise, provided such means be in themselves lawful and violate no right of another. But the use of necessary force to recover the exercise of a right is no more unlawful than the use of force to defend a right that is attacked. Moreover, it violates no right of another. If it violated the right of any one, it would violate the right of the one who has done the injury. And if it violated any right of his, this would be his right to continue the injury which he has done. But he has acquired no right to continue the injury. The mere fact of his having done the injury does not create in him a right to perpetuate it. Hence neither does it even justify him in defending himself against you when you proceed to recover what you have lost. If he puts himself in your way, he undertakes to stand the consequences.

363. *Q.* May every individual, therefore, at all times and under all circumstances, undertake, by *personal* force, the vindication of his right which another has violated?

*A.* No. In a constituted civil society the individual may not take the matter into his own hands to settle it by means of his own personal physical force. He must have recourse to the authorities established in the society for the vindication of violated rights. Of course, there are certain cases in which the established authorities may be powerless to act by the regular methods, and in these cases the society authorizes the individual to act for himself. Thus, if a man seizes your watch whilst you are walking along a dark and lonely street, you are authorized to seize him, in turn, and recover your watch. But the rule is that when the case comes within the action of the civil power, this power must be appealed to as the constituted guardian of the rights of the citizens.

The reason of this is sufficiently evident and is fully appreciated by all who live in civil society. If every man were allowed in all circumstances to undertake the personal vindication of his violated rights, there would be an end to all peace and security in society. Men prejudiced in their own favor might readily attack their neighbors who were really in the right. Many, using the advantage of might or of an obscure case, would do so under a false plea. Numbers, again, through anger and vengeance, would take greater compensation than was due to them. And not a few, through the same motives, would use more violence than necessary, or use it when it might not be necessary at all. Thus society would be delivered up to terrorism

and bloodshed. Hence, the law of nature, urging men to live together in society, demands the establishment in that society of an authority to which those who think they are injured may appeal,—an authority which shall enquire into the injury and its authors and bring about reparation without respect of persons.

## CHAPTER XIII. ARGUMENT OF THE WORK.

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THE purpose of this work on the fundamental ethics has been to treat, from a philosophical standpoint, the basis of correct human conduct. To accomplish this purpose, therefore, it was necessary to begin with the conclusions of the sound, universal, common-sense philosophy regarding man. Some of these conclusions are given in the first article. Out of these conclusions, by a questioning analysis, we deduce the principles that preside over human activity.

There are two philosophical conclusions which taken together seem to form a paradox, and yet which must enter in combination into every ethical solution. They are these :—

(1) Man is free ; that is, he has the physical power to will a thing, not to will it, or to will the opposite.

(2) Man, as a created being, is dependent in his entire being upon his Creator ; hence, even in the use of his free power of willing, he is subject to the will of his Creator.

Everything in creation has its own peculiar nature. Hence it is the will of the Creator, who made things what they are, that they should act according to their nature. Man is intelligent and free. Hence it is for him to act with liberty according to intelligence. If

knowledge or free will be absent from his act, this act will not be a human act.

The object which serves as suitable material for the natural activity of any being is called the "good" of that being. The purpose for which a being exists, and which it may reach by the exercise of its natural activity, is called the end of that being. The object which will supply material for the utmost capacity for action of a being is called the highest good of that being. Action, also, upon such object, will constitute the last end of that being.

Every being in creation has an innate tendency to action upon its own peculiar good. Beings that have not intelligence and free-will act by necessity. They cannot set to themselves a purpose. The free intelligent being, man, can set to himself a purpose and select means to the end. He may choose a good and an end which, being only a good and an end of a part of him, and being chosen out of time and without regard to the natural subordination of that part to the entire personality of the man, may be in opposition to the real end of the man, and be not good, but bad, for the entire personality taken as a unit. However, even when man thus chooses what is evil, he does not select it under the aspect in which it is evil. He tries to blind himself to this view and to bring out, in strong light, the phase in which it is seen as partial good. Thus it is that, though man's perfect happiness can consist only in the highest exercise of his distinctive powers of intelligence and will upon his highest good, and though he has an innate tendency to perfect happiness, still he does choose deliberately that which is evil for himself as man.



In Articles 4 and 5 of Chapter II. we considered the element of the voluntary in the human act and the circumstances that can affect the voluntary in an act. Then in discussing the action of the human will upon those objects that can come under its free appetite, we saw that the terms *moral good* and *moral evil* were applied to such things as should or should not respectively be made the object of the free choice of the will, as being respectively in or out of keeping with the reaching of the last end and the highest good of the entire personality of the man taken as a unit. The morality of a human act, therefore, is the right direction of that act towards man's highest good. There are some acts that are in themselves good, and others that are in themselves bad. There are some acts which are in themselves indifferent. In determining the morality of an act, we must consider the nature of the act, that is the final purpose of the will; also the nature of all acts directed to that purpose, and the circumstances of all these acts. The act will be morally bad if a single bad element enters. A good end will never justify a bad means.

The voluntary act, only, is imputable to the free agent, as of this alone does he adopt the responsibility, whatever such responsibility may be.

The moral order — that is, the order which is in keeping with the nature of things, and which man can by his free will disturb — becomes obligatory upon a free will when its observance is imposed by one having power to bind that free will. The observance which, before, was befitting as being according to the nature of things, now becomes law as being imposed by the will of the superior.

The binding force of a law is measured by the power of the superior to bind, and by his will in the concrete case to use that power. The power to bind the human will belongs to the Creator of the human will.

The term, *law*, is employed to express, not an isolated precept given to an individual; but it is reserved to indicate precepts that affect whole classes of individuals. A command given to an individual is called a precept. *Precept* is also often used to signify the separate enactments of a code of laws. Thus we speak of the precepts of the natural law.

The natural law is the body of precepts which are founded on the nature of things, and which tend to the natural perfection of man. The existence of the natural law has been recognized by all men, and is readily known in its more general precepts. It is a divine, eternal law, and is promulgated by reason to the will of man. That is to say, it is discoverable by reason which sees its precepts to be according to the nature of things, and, hence, to be according to the will of the Creator of all. Though it is often called the law of reason, reason is not the law, nor can reason make a law. Law arises from a will, and from the will of one who is the superior of the person for whom the law is made. From this is seen the insufficiency of the doctrine of Kant for the efficiency of law.

It is the will of the lawgiver that binds the free will of man. Man is left with the physical power to disobey, but he is under *obligation* not to disobey.

The most general precept of the natural law may be expressed in these words, "Do good and avoid evil."

Some precepts of the natural law are more readily inferred from the nature of things than are others.

The precepts of the natural law are either affirmative or negative. The negative precepts bind all men always and at all times. The affirmative precepts do not call for direct positive exercise at every moment.

There is a sanction for the natural law; a reward for its observance, and a punishment for its violation. Reason teaches this; and it teaches, moreover, that the sanction must extend beyond the present life. The fact of the sanction has been recognized by all peoples, just as all peoples have recognized the existence of the natural law.

Positive law is distinguished from the natural law as being law that depends upon the free will of the legislator. Natural law must be imposed. Any given positive law, considered in itself, need not be imposed. Positive law is called divine or human according as the legislator is, respectively, God or man. All purely human laws are positive laws. A positive law may never be in opposition to the natural law which is essential. When a human so-called law is found to be in opposition to the certain natural law, such so-called positive law is no law at all. It is null and void, and to follow it is to violate the unchangeable natural law.

The name, *moral conscience*, is employed to signify that act of the mind which declares a given law to be binding in a given case. This judgment is always, at least implicitly, the conclusion of an argument. When the conclusion is true and correctly drawn, the judgment is a true conscience; when the conclusion is false, the judgment is a false conscience. Culpability in acting upon a false conscience depends upon the culpability of the ignorance involved. The judgment of

conscience may be followed — and then only — when we have moral certainty of its truth. Moral certainty is such as excludes a prudent doubt. Whenever there is a prudent doubt about the lawfulness of an act, we must investigate the case before putting the act. If after having made the investigation befitting the gravity of the case we find ourselves still in doubt, we may — observing the very important restriction mentioned on page 79 — conclude that the law, if there be any in the matter, has not been sufficiently promulgated, and hence has not yet its binding force. The important restriction refers to obligations of justice, charity, and religion which we know to be certain and whose fulfilment we may not imperil by acting upon a doubt which still remains after a prudent investigation. Thus, for instance, I have been depositing money in my friend's safe, and I doubt whether a certain sum there is mine. My friend says that it is not mine. Nevertheless, I have a very serious doubt; and my doubt remains after investigation. I may not take the money; for my obligation of justice to my friend is something that is positively certain; and my taking of the money may imperil the fulfilment of this most certain obligation. Mere feelings are not conscience. Conscience is a matter of intellect, and hence is susceptible of being developed to a high degree of acuteness in discrimination and of rapidity in action.

The passions are not in themselves evil. They may be used for evil; but their purpose is to serve us as aids in the observance of the moral order. They are the capacities our sensitive nature possesses of being roused upon the apprehension of good or evil. They correspond in the sensitive order to the various attitudes

which the spiritual will can assume towards good and evil. Thus, when our sensitive nature is brought into play in harmony with the line of action adopted by the spiritual will, the work of the will is lightened because passion overrides the sluggishness of the body which might oppose itself to the will's commands ; and, besides, the effort is intensified, since soul and body are stirred up to action. The passions, by a misuse of terms, are very commonly called bad. This comes from the fact that very many persons too often take passion instead of reason for their guide.

Other aids that we may employ for the better observance of the moral order, are habits. A habit is the ease and inclination for a certain act which is acquired by the frequent repetition of that act. The habit of a good act is styled a virtue. The habit of a bad act is styled a vice. Four wide-reaching virtues, called cardinal virtues, preside over the movements of a thoroughly upright life.

There are two chief classes of errors to be guarded against by the student of the principles of ethics : errors that ascribe the perception of morality to the wrong faculty, and errors that start upon a false definition of morality.

The meaning of the word, *right*, as opposed to duty, is different from the meaning of the word, *right*, as opposed to wrong. Our duties are our obligations. Our rights are the liberties left to us outside of our duties. Duties are moral obligations ; that is to say, they rest upon the free will, leaving it, nevertheless, with the physical power not to conform to the obligation. We can learn our duties by studying the nature of man and the essential relations of his status in the

creation. Rights and duties are correlative things. They are both based upon law.

Rights are innate or acquired, alienable or inalienable. Duties are natural or positive, affirmative or negative. Rights and duties are perfect and imperfect. A distinction is made between an injury and an offence. The motive of a duty is the reason why the law imposes the duty. The title to a right is the reason why the law confers the right.

Though sometimes there may seem to be a contradiction between two laws, rights, or duties, we shall find, upon consideration, that, practically, there can be no real collision. We shall find that one of the rights, laws, or duties is real, and that the other is only apparent. When, in the case of an apparent collision, we wish to discover which of the two rights or duties is real, and which of the two laws really extends to the matter in question, we must take into consideration the order of the apparently conflicting laws, the motives of the duties, the titles to the rights, and the matter, subject, and term of both rights and duties. The expression, "suspension of law," is, like "collision," a convenience of speech. Great prudence is often required to determine the degree of difficulty in execution under which a law is intended to bind.

The vindication of perfect rights is a lawful proceeding. This vindication may be of two kinds. It may be simply to defend a right by repelling an unjust aggressor, or it may be to recover a right that has already been violated. Speaking in general, force may be used in both cases. In repelling the unjust aggressor, certain rules of defence must be observed. In a constituted civil society an individual may not—

except in a few obvious cases — take into his own hands the vindication by force of a right that has been violated. He must have recourse to the authorities established in that society for the vindication of violated rights.





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